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# HEMDAT YAMIM

## Parashat HaShavua

Balak, 14 Tamuz 5777

### Navi of Modern Zionism

Harav Yosef Carmel

Jewish communities have the *minhag* to read ch. 5-6 of Micha as the *haftara* of *Parashat Balak*. The simple explanation is that in this section, the *navi* mentions Balak and Bilam and their plot to destroy Bnei Yisrael, which Hashem foiled. We would like to suggest an additional rationale.

Micha Hamorashti was a contemporary of Yeshaya, but began his "career" later than Yeshaya (Yeshaya prophesied already from the time of Uziya, whereas Micha began during the time of his son Yotam (Seder Olam Rabba)). Since Yeshaya started prophesying on the day that Uziya contracted *tzara'at*, which was the effective end of his reign, there may not have been much of a time difference between the two. However, there are some major differences between the two.

While Yeshaya dedicates much discussion to the final liberation, King Mashiach does not play a major role in his prophecy. In those sections where Yeshaya talks of world peace, he, for the most part, does not mention Mashiach. Rather, he speaks of the Temple Mount as a center of world worship of G-d and from where Torah emanates. Even if there is a king in the background, he is not fighting, as this is a time when swords will be turned into plowshares (Yeshaya 2:4). Even in those prophecies that speak about Mashiach explicitly, he is described as a man of spirit and divine wisdom, not war (see Yeshaya 11:1-5).

Micha, on the other hand, paints Mashiach in the likeness of King David (Micha 5:1). He leads fierce battles (ibid. 4:13). As opposed to Yeshaya's description of docile animals living with predators, Micha describes Bnei Yisrael as the predators (ibid. 5:7-8). (See more in Tzafnat Yeshaya).

The first settlers in Gush Etzion were inspired by the teachings of Micha. Their first settlement was called Migdal Eder, a place referred to by Micha (4:8) as a part of the kingdom based in Yerushalayim. In this way they were following the Rambam (Melachim 11:1), who, in mapping out the trends of the time of Mashiach, uses *p'sukim* from Micha, not Yeshaya, and describes Mashiach as a statesman. He also invokes *p'sukim* from Bilam's prophecy in our *parasha*, which talk about battles that Mashiach will wage.

In this way, *Parashat Balak* and Micha are united in their view of Mashiach, as a strong political/military leader. In that way also, Modern Zionism, while for the most part being peace-loving, is also a pragmatic movement, which foresaw and created a political state with a strong army facilitating its establishment and development. May we continue to develop our modern state along the lines of the great prophets.

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



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by Rav Daniel Mann

## Kabbalat Shabbat of Part of the Community

**Question:** My community has a small *minyan* for *Kabbalat Shabbat* that accepts Shabbat early, and no second *minyan* (there is a larger *minyan* for the rest of Shabbat). Must I accept Shabbat at the time the early *minyan* does, which is sometimes difficult for me?

**Answer:** The Shulchan Aruch (Orach Chayim 263:12) rules, based on the Mordechai, that at whatever time the majority of the community accepts Shabbat, individuals, even those who have not come to *shul*, **must** accept it as well.

The acceptance of the community (according to most, at the end of Lecha Dodi – Mishna Berura 261:31) does not make it Shabbat for all in the fullest sense but creates a prohibition to do *melacha*. Those who have not yet accepted Shabbat may *daven Mincha* during this time, just not in the place the majority are *davening Ma'ariv* (Shulchan Aruch ibid. 15; see Biur Halacha ad loc.).


Let us see exceptions to the rule of communal acceptance, as perhaps one applies here. The Magen Avraham (263:24) says that in a community with multiple *batei kneset*, the first *shul* to accept Shabbat does not impact other *shuls*, even if it contains a majority. According to many, this applies also to two *minyanim* in the same *shul* (Shemirat Shabbat K'hilchata 46:(43)). However, some say that a clearly central *shul* sets the tone for the entire community (Eliya Rabba 263:26). Private *minyanim*, i.e., those held in houses, are overpowered by a public one that contains a majority of the community (Mishna Berura 263:51).

A member of a *shul* (even if it does not have a community majority) is included in its Shabbat acceptance even if he or she was not there (Machatzit Hashekel 263:24), unless he decided to go to another *shul* that week (Aruch Hashulchan, OC 263:28). If most of the community's members are not in *shul*, the *shul* does not draw along the community (Mishna Berura ibid.).

In determining the majority, who is included in the community? *Poskim* posit that it refers to Shabbat-observant Jews (see Shevet Halevi IX:56). This makes sense, as in trying to figure out the time at which Shabbat will be accepted, you should ask those who **will** practically accept it. Someone who is careful about Shabbat but may not keep every halacha or be a regular *shul*-goer likely counts, unless perhaps if he is socially divorced from the community of Shabbat observers. It is unclear from your question if those who accept Shabbat early in your community are the majority based on this perspective. The case for not having a single *shul* cause a whole area to accept Shabbat early is stronger in Israel, where the public announcement of Shabbat times, the end of bus service, etc. follow the regular time. (The boundaries of a community are not always easily set – is there a division between Rechavia, Shaarei Chesed, and Nachlaot, and if so, where? Are Teaneck and Bergenfield one or two communities?)

Rav Moshe Feinstein (Igrot Moshe, OC III:38) and the Be'er Moshe (II:17) present a novel but logical distinction. The idea of accepting Shabbat early in a way that binds others makes sense when done in an effort to increase the time of sanctity or distance people from Shabbat desecration. However, where early *minyanim* are done only in the summer, when late nightfall creates technical problems, these *halachot* likely do not apply. This distinction seems to assume that the halacha is based on the nature of the acceptance of Shabbat. If, though, the halacha is a matter of avoiding degrading by doing *melacha* the Shabbat of the majority of the community who are already celebrating Shabbat (Shevet Halevi ibid.), it shouldn't make a difference what the motivation is. Shemirat Shabbat K'hilchata (46:(42)) cites this opinion without accepting or rejecting it, and it may be pertinent that the halacha of getting pulled into Shabbat by the *tzibbur* is ostensibly only Rabbinic.

In a case of need, it is legitimate to rely on Rav Moshe's leniency. For several reasons, though, it is preferable to try to make it to the *Kabbalat Shabbat minyan* and then accept Shabbat with them.



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# Ein Ayah

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

## Emotional Sensitivity to Distress

(condensed from Ein Ayah, Shabbat 5:16)

**Gemara:** Rav Yehuda was sitting before Shmuel. A woman came in and screamed about her plight, and Shmuel did not take heed of her. Rav Yehuda said to him: Do you not agree with the *pasuk*, "One who seals his ear from hearing the cry of the poor will also call out and not be answered" (Mishlei 21:13)? Shmuel answered: Sharp one, your leader (Shmuel was Rav Yehuda's teacher) will be exposed to cold water; the leader of your leader (Mar Ukva) will be exposed to hot water. After all, Mar Ukva is the head of the rabbinical court, as it says: "The house of David – thus said Hashem: Rule in the mornings rulings of justice and save the victim of robbery from he who is oppressing him" (Yirmiya 21:12).

**Ein Ayah:** The very feeling of compassion and agitation upon seeing one who is oppressed, causing one to come to his aid when he is not obligated to do so and when it is the job of others, is intrinsically a wonderful characteristic. The moral expression of this good emotion – to care about the pain of the distressed – is at times more important than the value of the action taken.

Therefore, one should not close the doors of his heart to the good and sensitive emotions that are aroused in every heart of flesh to have mercy and to empathize with the oppressed and to help protect them from their oppressors. One who seals his ear from the cry of the poor causes the good emotion of compassion for those in distress to retreat. This swallows up the G-d-given gift of proper emotion that is found in the midst of the human heart. It is actually the foundation of the purpose of prayer, to arouse the proper emotions to act positively on the heart, as the spirit is elevated optimally when one serves Hashem through the service of the heart (prayer).

When one acts in his lifestyle in a manner that opposes fine emotion and seals off the cry of the poor, he causes a situation in which there is not benefit from prayer. Then he will not be awarded the special spiritual effectiveness of a proper prayer, which makes it more likely to be heard and fulfilled. Usually, the apparatus of needs that make prayer necessary line up with the emotional needs that people have, each according to its value. Then the fulfillment of the prayer will bring an emotional divinely recognized benefit. However, this is lost when one has lost his emotional sensitivity to have compassion for the distressed. Then, there is not a divinely recognized benefit achieved by fulfilling his needs. He will need a more daunting situation than one provided by normal prayer before his needs will be addressed.

However, there are times when there is a broad, lofty need to allow one's intellect to ignore the good emotion of compassion. In those cases, the cold calculated mind has an advantage over emotion. One such situation is when it is important that there be a communal legal hierarchy, where there is a central address for legal complaints. This is especially important when the chief judge is from the House of David, as the centrality of the dynastic family leads to the greatness of Israel. Then people will have a healthy desire for the restoration of the kingdom of Israel. This is enough justification for others to not get involved in rushing to the aid of the oppressed. That is what Shmuel alluded to in regard to Mar Ukva (a leading judge and a member of the family of David). He was the one who had full responsibility and would be punished if he did not take steps. When successful, the personal and national seeds could unite in the actions of such an important person as Mar Ukva.

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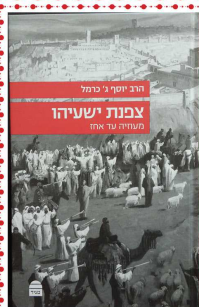
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# P'ninat Mishpat

## Altercation with a Photographer – part I

(based on ruling 75129 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) is a newspaper photographer who went to a building site in a settlement that was the subject of legal/public controversy. Upon starting to take pictures, Reuven, a guard at the site, told him to leave. He continued taking pictures from a nearby public street, and then Reuven was joined by the defendant (=def), the site's foreman. After a short argument, pl started taking pictures of def until the camera sharply hit him in the nose causing blood to stream down. Putting down the camera, he saw that only def was close enough to have hit him. Def denies hitting him and said that he only raised his hand to block the camera's view, and that apparently pl banged the camera into his nose himself. Reuven's story was similar. Pl is suing for 100,000 shekels (his injury includes a deviated septum).

**Ruling:** There are no witnesses, including even pl, who claim to have seen def strike pl's camera, but there is significant circumstantial evidence. Reuven's accounts were full of inconsistencies, and a few witnesses related that Reuven had told them after the event that there had been an altercation between pl and def. All acknowledge a policy to prevent photographers from taking pictures.

Usually, one cannot extract payment without witnesses or real proof. However, there is precedent for payment for physical damage with less than that. The *mishna* (Shvuot 44b) says that if there are witnesses that Shimon was undamaged before contact with Levi and was seen damaged right afterward, Levi has to pay for damages if Shimon swears that Levi damaged him. The Shulchan Aruch (Choshen Mishpat 90:16) rules this way when the damage was such that Shimon could not have done it himself and the witnesses believe there was no one but Levi in the position to do it. The Rambam explains that the easing of rules of proof is a penalty toward violent people, and the Ra'avad says that it is because the circumstantial evidence is particularly strong. Our case is similar in several ways.

On the other hand, here we lack witnesses before and after the damage occurred. The Terumat Hadeshen (II:208) says that the alleged damager's denial is believed because of a *migo* that he could have denied the story. It is likely, though, that in this case, enough was seen (and photographed) to prove the basic story.

The Ramah (cited by the Tur, CM 90) says that the damaged person's ability to receive payment after an oath only applies when it is known there was an altercation between them. While the Shulchan Aruch does not cite this position, important *Acharonim* do. In this case, there was great tension between pl and def. While we doubt that def struck pl with the intention to hurt him, there was enough of an altercation to not be surprised if there was physical contact with the intention of stopping the picture taking. This could have inadvertently caused the physical damage. Although we do not allow people to make an oath, pl deserves some compensation based on compromise in lieu of the oath. [Next time, we will explore for what elements pl is due to receive payment.]

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