



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

PARASHAT HASHAVUAH

Vayeishev 20 Kislev 5771

Yaakov Desired to Live in Tranquility

(Harav Shaul Yisraeli - from Siach Shaul, pp. 118-120)


Our *parasha* opens: "Yaakov lived in the land of his father's dwelling" (Bereishit 37:1). Rashi (ad loc.:2) comments famously that Yaakov desired to live in tranquility. Ostensibly, who could blame him after the difficulties with Eisav, Lavan, and Dina? However, our forefather, who served as a forerunner for our nation, was not able to have his wish granted.

A new storyline begins to unfold, one which will spread over several *parshiyot*, and it brings to fruition the prophecy said to Avraham that his offspring would be strangers in a land that was not their own and that they would be tormented there. *Chazal* (Bereishit Rabba 84:3) so appropriately put Yaakov's feelings into the words of Iyov (3:26): "I did not have tranquility, (from Eisav), and I did not have quiet (from Lavan), and I did not rest (from Dina), and agitation came (from Yosef)."

While the Hand of Hashem was certainly behind the playing out of the events, *Chazal* saw Yaakov responsible for the more direct cause and effect of what transpired, in that he desired to live in tranquility. A person is more likely to see stumbling blocks that arise before him from external causes and is less likely to notice those that are self-imposed, and that is a danger.

The similarities between Yaakov and his son, Yosef, are striking (as Midrash Rabba 84:6 points out). Of the dozen of similarities mentioned, the most critical might be that each was hated by his brother(s) to the point that the latter wanted to kill him. This is the nature of hatred - not only a wicked man like Eisav might contemplate killing his brother, but even the fathers of the tribes could, under certain circumstances, come to such a situation. The problem was that Yaakov, clinging to the hope/belief that he had finally reached an end to the tests he had to pass, was lax in his vigilance against disaster. If he had been as careful as he had been when he encountered Eisav, he could have nipped the hatred between Yosef and his brothers in the bud. Granted, Bnei Yisrael would have had to go into exile in some way, but it would have come about without his active or passive involvement. It was the desire for a respite in his struggles that brought on the very type of problem he was trying to avoid.

We have been trying to learn this lesson throughout the generations, and we need to learn it in our generation as well. In Israel, too, we have wanted to finally have some rest after finally achieving independence. We had enough problems in the Diaspora and in the establishment of the State. However, we must realize that it is not only our external enemies who are dangerous. The negative inclinations of members of our people are as well. If we want tranquility, we must be on guard to avoid laxness. We must use our independence as a springboard to a higher moral level. Only then will we fully utilize the fruit of the efforts of many generations of forefathers.

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Deans: **Harav Yosef Carmel, Harav Moshe Ehrenreich**
3 Rabbi Chiya Hagadol St. P.O.B 36236 Jerusalem 91360

Tel: 972-2-5371485

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Question: When is it permitted for a *gabbai* to speak in performing his various responsibilities, such as choosing and informing people about *aliyot*, finding out their names, and discussing who should be *chazan*? Specifically, I was wondering about during *chazarat hashatz*, *Kaddish*, and *Kri'at Hatorah*.

Answer: *Chazarat hashatz* is a logical time to take care of planning the *aliyot* (as the Torah is being taken out is better but is often not enough time). The Shulchan Aruch (Orach Chayim 124:7) speaks sternly about one who speaks “mundane talk” during *chazarat hashatz*, which implies that matters that are of an appropriate nature are permitted. Granted, it is not simple to allow other positive things, like learning, during that time, and, as a rule, people should listen, be careful to answer *Amen* to the *berachot*, and not ruin the discipline of others in *shul* (see Shulchan Aruch *ibid.*:4 and Mishna Berura 124:17). However, everyone should understand that a *gabbai* has little choice but to use that time for his basic tasks. (It is unfortunate that some *gabbaim* take the opportunity for unnecessary *schmoozing*.) Exceptions during *chazarat hashatz* are when there may not be ten people (actually, nine plus the *chazan*) answering besides the *gabbai* and the person he is speaking to (see Shulchan Aruch, *ibid.* and Igrot Moshe, OC IV, 19) and during *Kedusha* (see Rama, OC 125:2) and *Modim D'rabbanan*.

Speaking during *Kaddish* is more severe than during *chazarat hashatz* (see Mishna Berura 56:1) and can and should be avoided at almost all costs.

The big question is in regard to various parts of *Kri'at Hatorah* (*laining*). The *gemara* (Sota 39a) says: “Once the *sefer Torah* is opened, it is forbidden to speak even in matters of halacha.” In order to reconcile this *gemara* with the *gemara* in Berachot (8a), which mentions that Rav Sheshet learned during *Kri'at Hatorah*, *Rishonim* make different distinctions regarding who the learner is and his circumstances are (see Tur, OC 146). However, according to at least most of them, it is forbidden for a *gabbai* to speak during the actual *laining*. This could be because it is disrespectful, disruptive (Rashi), or he is missing words that he needs to hear (Igrot Moshe, OC IV, 40.5; see opinions in Yabia Omer, IV, YD 31). Only in a situation where there is no choice would it be permitted (see Aruch Hashulchan, OC 146:2).

In general, there is a *machloket* whether it is permitted (Bach, OC 146) or forbidden (Beit Yosef, OC 146) to speak *divrei Torah* in between *aliyot* (*bein gavra l'gavra = bglg*). The Beit Yosef's main objection is a concern that one who begins to speak might not stop speaking in time for the next *aliya*. It doesn't make sense to apply this strictly to a *gabbai* on duty for two reasons: he needs some latitude to do his job; the *laining* will generally not commence while he is still at work.

The remaining question, then, is how to view the *beracha* after each *aliya*: is it part of the *laining*, to which everyone must listen, or is it part of *bglg*? The Ritva (Megilla 21b) says that the reason that this *beracha* begins with “*Baruch*” and is not a “continuation *beracha*” is that it is permitted to talk before it. Regarding the halacha that one may leave shul *bglg*, the Pri Chadash (146:1) says that after the reading but before the *beracha* is already considered *bglg*. Some had the *minhag* to deliver a *derasha* before the *beracha* (see Yechaveh Da'at V, 17). There is significant discussion as to whether the *berachot* are an obligation of the whole congregation or just of the *oleh* and whether it is important for ten people to hear them (see Teshuvot V'hanhagot I, 143). After weighing the factors, it makes sense that assuming all the following – ten people hear the *beracha*, the *gabbai* can do it without distracting the *oleh*, and it will save time for the congregation (which halacha deems as precious) – the *gabbai* may speak for the needs of his job before or during the ending *beracha*. Others should listen to the *beracha* intently.

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The Freedom of Fearing Hashem

(condensed from Ein Ayah, Berachot 5:107)

Gemara: Rabbi Chanina said: All is in Heaven's Hands except for the fear of Heaven.

Ein Ayah: The true *shleimut* (completeness) is to resemble Hashem to the extent humanly possible. A prerequisite of *shleimut* is total freedom, which is a sign of full ability. If there is something that is forcing someone, then he is not free and capable.

The highest level a person can reach is to possess fear of Hashem, which enables one to adorn himself with the full realization of Hashem's Honor. Therefore, it must be connected to the high level of full free choice. Therefore, fear of Hashem was left to complete free will and is not dictated from Above, so that man can reach as close to Divine attributes as is humanly possible.

Standardization of Kri'at Shema

(condensed from Ein Ayah, Berachot 5:109)

Gemara: One who recites *Kri'at Shema* and repeats it has done an improper thing. Rav Pappa asked Abaye: "[Why is it improper?] Isn't it possible that the first time, he didn't say it with sufficient *kavana* (concentration)?" He answered: "Is one having a friendly interaction while dealing with Hashem? If he does not concentrate the first time, we should hit him over the head with a hammer [figuratively] until he concentrates."

Ein Ayah: The true grasping of Hashem's oneness [which we proclaim in *Kri'at Shema*] can be reached one level upon another. But the pure essence of this concept, as the Torah spells out, is something that the human mind cannot achieve [*The translator is not clear on Rav Kook's exact meaning in this previous sentence, which is also not translated literally, but the general idea should be understandable.*] This is because Hashem's oneness is the same as His essence, and only Hashem knows exactly what His essence is.

Therefore, the best way to go about accepting the yoke of the kingdom of Hashem (which is the point of *Kri'at Shema*) is to accept it from the perspective of what is written in the Torah, which is sufficiently deep. When one recites and repeats *Kri'at Shema*, he seems to show that he is adding to the level of the statement. It, therefore, cannot be an acceptance from the Torah, which does not lend itself to additions and repetitions. That is what makes it improper.

The extent to which the oneness of Hashem and the oneness of Israel bear testimony one on the other depends on Bnei Yisrael's recognition of the oneness of the Torah. Even though one is supposed to try to advance his intellect to the extent that his personal capabilities allow, when it comes to acceptance of the yoke of Hashem, which is the essence of *Kri'at Shema*, he should suffice with doing so like everyone else, through the auspices of the Torah.

While it is not good for there to be differences between the qualities of different people's *Kri'at Shema*, this is under the assumption that people are concentrating on the simple meaning of the words. If not, one is deserving of strong criticism. Such a basic understanding is not a matter of intellectual attainment but of a practical nature, and if he is missing it, it is a moral deficiency.

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Compensation for Preventing the Ability to Travel

(condensed from Shurat Hadin, vol. IV, pp. 294-297)

Case: A divorced wife (=def) had *beit din* issue a restraining order against her ex-husband (=pl) from leaving the country out of fear that he would not continue child support. However, def did not inform pl of the restraining order, and he found out only at the border crossing to Sinai, causing his planned and paid trip to be lost. Since def signed an agreement to pay damages when she did not give him three days warning about such a restraining order, pl is suing for his lost reservation expenses and for the aggravation of having his vacation ruined.

Ruling: While there is a *machloket* whether one can obligate himself in a sum of money that is not determined at the time of the obligation (the Rambam says one cannot), the Shulchan Aruch (Choshen Mishpat 207:21) says that one can. This is also the practice of the Israeli *batei din*, even to extract money.

The classic case discussed is when one intends to give a present to his friend, just that it is not clear at the time how much that will come to. However, if the obligation he accepted is to pay for damages or lost opportunities, then other criteria must be met. The Rashba (cited in the Beit Yosef, CM 61) says that a document that obligates one to pay for expense or loss if a borrower does not pay on time is not binding. The Darchei Moshe (CM 61:6) says that the issue is of *asmachta* (an obligation that one accepts upon himself because he does not think it will ever come to fruition). Thus it would have to have been accompanied by the steps to overcome *asmachta*. However, the Darchei Moshe is disturbed why *asmachta* should play a role since the payment is not a penalty but just a way of recovering loss. In a similar case, the *gemara* (Bava Metzia 104b) says that a sharecropper who says that if he does not work the owner's field, he will pay as if he had a successful crop, is required to pay. The Bach (ad loc.) and the Shach (61:10) say that when the profit that was withheld was close to certain, the one who obligated himself has to pay, but if there was only a chance of gain, promising to pay for withholding an obligation is not automatically binding. On the other hand, the Sha'ar Mishpat (61:2) asks on the Bach that while withholding a possibility of another's profit does not alone obligate payment, when he obligates himself to reimbursement, it should not be seen as an exaggerated obligation that is subject to the laws of *asmachta*.

In the final analysis, since according to many *poskim*, a promise to pay for withheld gain needs to conform to the laws of overcoming *asmachta* (which were not carried out in this case), def is exempt from paying for the lost vacation. Regarding actual expenses as a result of the failure to keep a commitment, most *poskim* agree that one who accepted upon herself should pay, and therefore def must reimburse pl for the actual outlays for the vacation that were lost (see S'ma 61:12 and Netivot ad loc.:12).

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