



HaRav Shaul Israeli zt"l
 Founder and President

HEMDAT YAMIM

Parashat HaShavua

R'ei, 27 Av 5777

Listening for Listening's Sake

Harav Shaul Yisraeli (based on *Siach Shaul*, pp. 501-502)

"The blessing – that you shall listen to the commandments ..." (Devarim 11:27). The main blessing is not the external reward that one receives from Hashem but is the listening itself. Fortunate is the person who knows how to feel this, for then his life is like the Garden of Eden. When we make an appraisal of our lives, we will find that most people are not satisfied. Sometimes people think that it is because they are missing this or that, and they aim to obtain it so that they will finally be satisfied. Wonder of wonders – we always find ourselves lacking something, and we always have to toil to obtain it. It is like the edge of the sky in the eyes of a baby. The closer you get to it, the more it seems to be escaping us.

The blessing is to identify the source of blessing, and to realize that we are not at all looking in the right direction. It is easier than we realize to find satisfaction. It is actually in our hands, in what we possess – it is, "that you shall listen."

It is reminiscent of the sorcerer in the story of Ashmedai (Gittin 68a). He searches for his treasure at the edge of the universe and does not realize that he is standing on it. That is what all of us do. We work so hard looking for our treasure, turn our hair white, and ruin our posture so that maybe we will find some satisfaction and happiness. Much of that work is for nothing. You already have the blessing – a *daf* of *gemara*, a *perek* of *mishna*, *Chumash* with Rashi. It is not that hard and does not require great exertion.

"The spirit will not be filled" – there is a parable of a simple city dweller who married a princess. If he brings her everything he can find, it will not be important to her, for she is a princess (Kohelet Rabba 6:1). The soul demands its nourishment. Instead, we give it food that it cannot digest because our soul is from above. The job of the month of Elul is to fulfill the *pasuk*: "If a shofar will be sounded in the city, will the people not tremble?" (Amos 3:6). In other words, we need to shake the heart out of its complacency. Sometimes one is so sure of himself that he has no doubts about his decisions. Elul is there to loosen the nails we have placed around our path, which convinces us that we are always right and our motivations are always complete. Elul awakens doubt. In that way it is an introduction to the Ten Days of Repentance. It is interesting that the introduction is three times as long as the period of repentance itself. If a person does not realize he can be wrong, he does not realize he can sin, and then there can be no repentance. If we remove the wall of self-reliance, we will see the ugly truth ... and we will realize for what we need to repent.

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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

Calling a *Kohen* Who is a *Katan*

Question: We sometimes have only one adult *kohen* and his son, who is under bar mitzva, doing *Birkat Kohanim*. In that case, should we call out "*Kohanim*"?


Answer: The *halacha* that you are assuming, that someone calls "*Kohanim*" before *Birkat Kohanim* only when there are at least two *kohanim*, is derived by the *gemara* (Sota 38a) from "say to them" (Bamidbar 6:23) in the context of *Birkat Kohanim*. Several *Acharonim* relate to your case, when there are two *kohanim* but only one of them is a *gadol*.

The Mabit (I:64), apparently the first major *posek* to discuss it, says that one does not call out in such a case. The first of the Mabit's working assumptions is that the role of the *katan* is less than regarding most *mitzvot*, as a *katan* is not even supposed to do *Birkat Kohanim* by himself, just that he goes up along with adult *kohanim* (Tosafot, Chulin 24b; Shulchan Aruch, Orach Chayim 128:34). The second assumption is that calling out is done to create an obligation for the *kohen* to do *Birkat Kohanim* (see Tosafot, Menachot 44a; Tur and Beit Yosef, OC 128). Since the *katan* is not going to be impacted by the call of *Kohanim*, there is no point in doing it due to his presence. The *gadol* will remain uncalled and will fulfill the *mitzva* of *Birkat Kohanim* without the standard obligation. He adds that there is also a problem of *hefsek* if the *chazan* decides to unnecessarily call out *Kohanim* during *chazarat hashatz*. Finally, he says that it is a disgrace to the *tzibbur* to be dependent on the *katan* (see Rashi, Megilla 24a).

Several *Acharonim*, including the Magen Avraham (128:13) accept the Mabit. The Pri Chadash (OC 128:10), though, disagrees on all his grounds and rules to call "*Kohanim*" in that case. First, he says that although the *katan* does not do *Birkat Kohanim* alone, when he does it, it is the fulfillment of a *mitzva* like any other of a *katan's* actions. Once calling is appropriate, there is no problem of *hefsek*. Finally, he posits that calling out is not a charge to bless, but is instruction to the *kohanim* to turn around, and thus it does not disgrace the *tzibbur*. He also points out that according to the Yerushalmi (Berachot 5:4), we should call even to one *kohen* (with there being a *machloket* whether to say "*Kohen*" or "*Kohanim*"), and therefore it is unlikely that the Bavli would forbid it.

The majority of *Acharonim* hold like the Mabit (see Kaf Hachayim, OC 128:64, Yalkut Yosef 128:18). However several *Acharonim* raise the following very pertinent distinction, according to the prevalent *minhag* of Ashkenazim in this context. While for Sephardim, the *chazan* recites only the word "*Kohanim*" after finishing the *beracha* of *Modim*, the Rama (OC 128:10) prefers the *minhag* that the *chazan* says quietly the short prayer of "*Elokeinu ... barchenu babracha ...*" just that he says the included word of "*Kohanim*" audibly. As such, the call is not a *hefsek*. Many, including the Pri Megadim (Eshel Avraham 128:13), Mishna Berura (128:38), and the Kaf Hachayim (ibid.) say that according to this *minhag*, there is no problem saying *Kohanim* for one adult and one minor *kohen*. This is all the more so according to the prevalent *minhag* in Israel that the *chazan* is not the one to call out *Kohanim* at all. When we recall that according to the Yerushalmi, it is always proper to call out for one *kohen*, the idea makes a lot of sense. (Admittedly, the Mabit himself had other reasons for not saying *Kohanim* other than *hefsek*, but apparently many *Acharonim* felt that the other reasons are weaker.)

One could claim that it is not just possible but important to say *Kohanim* even in this case, because the obligation to perform *Birkat Kohanim* is predicated on that invitation of the *tzibbur* (see our column of Ki Tavo, 5774). However, I did not see that factor raised by the *poskim*. That is apparently because according to most, an inappropriate call to *Birkat Kohanim* is inconsequential. Also, the significance of calling *Kohanim* and the possibility that it creates an obligation is not as great as one might think. We discussed these points in that column.



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Ein Ayah

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

The Progression to a Mankind Without Sin

(condensed from part of Ein Ayah, Shabbat 5:36)

Gemara: Rav Ami said: There is no death without sin.

Ein Ayah: The order in which Hashem formed His creations is that there is a continuous increasing in terms of their completeness. Once creation reached the status of man, who has a significant element of freedom to choose, the basis of the building of the levels of elevation is in regard to man's moral status.

Therefore, if a person's moral standing is incomplete and has not reached the point at which sin is not found, death is necessary so that the species can keep moving on in the proper direction. Only eventually will it be achieved that there will be people who are so morally complete that they have not committed any sin.

The moral shortcoming, as long as man has not reached the point at which he has eradicated sin, is not focused on sin specifically done intentionally, which is what can cause a person to be subject to a punishment of death. That refers to death based on an individual sin by chance. Rather, we are talking about a general lowliness that has not allowed getting to the point at which life is so high that it has no connection to sin. In any case, without any sin, death is not appropriate.

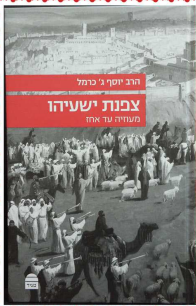
Only the Whole Can Raise Man to the Ultimate Level

(condensed from Ein Ayah, Shabbat 5:37)

Gemara: [Is it so that there is no death without sin?] Doesn't it say in a *baraita*: The angels said before Hashem: "Why did you decree death on Adam?" Hashem answered: "I commanded him in one small *mitzva*, and he transgressed it." They said to Him: "How about Moshe and Aharon, who fulfilled the whole Torah, and they died?" Hashem answered: "For one outcome will there be for the righteous and the wicked..." (Kohelet 9:2).

Ein Ayah: Even though every person has his own personal moral status based on the choices he has made, there is still a general characteristic of the soul of a human being, which affects a person even in ways that are beyond his ability to affect them by his own choices.

The moral fall of Adam created a set blemish in mankind's soul. Only when a transformation takes place, one that Hashem, in His goodness, strives for, can he return to a great level of completeness. This elevation needs to occur to the soul of mankind as a whole, and this requires death and all that goes along with it. The individual, even one who has reached a personal level of choices that approaches perfection, cannot perfect his soul by himself. He can only affect his personal status of the soul, not the part of the soul that is connected to the general level of mankind. The latter will occur when all are elevated to the point that "the land will be filled with knowledge of Hashem, just as the waters fill the seabed" (Yeshaya 11:9). Until that point, free choice cannot create human immortality.



Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Copyright Infringement in Communal Gift – part I

(based on ruling 76038 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def), a settlement community, decided to give as a present to its few hundred families, magnetic signs with a certain design and the families' names on them. Their Director of Culture took a picture of a sign in front of family A's house to a printing press and asked for a similar design (she tried to call that sign's designer but when she did not succeed, proceeded). Because she did not like the outcome, she approached a designer who worked at a child care center belonging to def and asked her to quickly come up with an alternative. Half an hour later, the designer presented the design for a sign, which had the name and number of pl on the bottom; she took it off a Facebook site of designers. The signs with that design were given out and are now on the doors of many of the yishuv's homes. Pl is suing for: 450 shekels for use of the design and 50,000 shekel penalty for copyright infringement. Def claims that they are exempt, because, as an entity, they did nothing wrong, and the Director of Culture acted without realizing that anything was wrong with what she was doing (she claims to not have noticed the name on the design and trusted that it was from a legal source).

Ruling: Our assumption is that the Israeli law protecting intellectual property rights (2007) is halachically valid, as was explained in Eretz Hemdah's ruling #71036. There are three complementary grounds for requiring payment for such infringements: 1) it is a form of theft; 2) the infringer received benefit that he did not pay for; 3) there is an injunction created on behalf of society to discourage people from taking without pay the fruits of the work of others, which de-incentivizes people working to be innovative.

These different grounds are relevant regarding the question of def's responsibility for the missteps of its workers. While it is not clear if #1 should relate to the workers or def, #2 and #3 certainly relate to def. They are the ones for whom the work was done and therefore who need to insure society that they are doing their part to not abuse the rights of contributors to society. Therefore, def is potentially obligated.

According to par. 58 of the intellectual property law, if the infringer did not know and should not have known that someone had rights to the thing he used, he is not subject to penalty. Can def, by means of its workers, claim to have been naïve? The designer, who works for def, took the design from a Facebook site, and as one who works in the field, must have known that it was the property of the person whose name appears on it. The Director of Culture had planned to take the design done from a specific house, without permission, and so she did not infringe on rights only by mistake.

Next time we will analyze how the amount def has to pay was determined.

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We daven for a complete and speedy refuah for:

Lillian bat Fortune

Eliezer Yosef ben Chana Liba

Yehoshafat Yechezkel ben Milka

Ro'i Moshe Elchanan ben Gina Devra

Together with all *cholei* Yisrael
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