



### Parashat Hashavua

Ki Tisa, Adar 15, 5785

Harav Shaul Israeli zt"l  
Founder and President

### Gold, Silver, Precious Stones – Closeness to Hashem (part III)

Harav Yosef Carmel

The last two week we have focused on a *pasuk* in Mishlei: “There is gold and a multitude of pearls, but the lips of knowledge (*siftei da’at*) are the precious vessel” (20:15). How is it possible to contrast gold and silver with wisdom? We saw the *midrash* (Vayikra Rabba 1:6) that the contrast represents the populace of Bnei Yisrael and its heads of tribes vs. *Moshe Rabbeinu*. Specifically, Hashem reassured Moshe that the wisdom he spoke to the people (lips of knowledge) were more precious than the physical project of the *Mishkan* (“there is gold”). We saw that *da’at* relates to close relationships that epitomize our relationship with Hashem. We also saw that the parts of the body that are involved in speech have an especially lofty status. We continue with lessons from the expression *siftei da’at*.

Speech gives man special standing within creation, which consists of the inanimate, growing, living, and above that, speaking. When the Torah describes Adam’s passage from “living” to “speaking,” it says “He blew into his nostrils the breath of life, and man became a living spirit” (Bereishit 2:7). Onkelos translates this as: “... man became a **speaking** spirit.” We note that the same root is used for the blowing that Hashem did to give us our soul, which comes “directly” from Him. Man’s spirit finds expression in practice in speech, as his “lips” give an outlet to his cognitive side. Rav Kook, in Orot Hatorah (1:2), wrote that the root of the Oral Law is higher than that of the Written Torah. Following in Rav Kook’s footsteps, we suggest that the expression *Torah Sheb’al Peh* (Oral Law, literally, on the mouth) stresses the importance of speech and its connection to the mouth. Since the mouth’s main job is to grant access to *da’at*, we can appreciate the *pasuk* “the lips of knowledge are the precious vessel.”

*Da’at* is important even before it enters the physical world through the mouth. Thought is man’s way of connecting to the world that is beyond physicality. The more abstract a thought, the more transcendental it is. The great riddle is how someone who is “created from earth” can approach the Maker. The *pasuk* of Hashem blowing a soul into an earthen body is part of the paradox.

The answer is that thought allows us to connect to Torah, which is our entrée to “divine thought.” It enables us to express our thoughts within the world of the Oral Law. Prophecy, which is an expression of great closeness to Hashem, is often called “*davar*,” which shares a root with *dibbur* (speech). Yeshayahu prophesies that *Mashiach* will possess a spirit of Hashem, various types of wisdom, and fear of Hashem (11:2). He will usher in a period of *da’at* filling the land “like water covers the seabed” (ibid. 9). Our generation has thankfully seen a “flood” of Torah, with more people studying it seriously than ever before. The goal is to grow our connection to our Creator. At Creation, water covered the whole world and a divine spirit hovered over the water.

We now need to make the importance of Torah study not just clear to certain sectors, but to the whole nation. This requires that those who are involved in Torah join in the country’s security obligations, and thereby avoid a perception that a life of full-time Torah is a tool to receive special privileges. Rather, the *da’at* that the Torah engenders must spread great light and a special uniting between Hashem and His nation.

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# Ask the Rabbi

by Rav Daniel Mann

## Watching a Bar Mitzva Videoed on Shabbat

**Question:** My non-Orthodox relative wants me to watch the video of their bar mitzva (not a given they would make one), taken on Shabbat. My relationship with the family is very important to me (notably, I am a *ba'al teshuva*), and my refusal could insult them. What should I do?

**Answer:** It is a fair assumption that the videoing process only included Rabbinic prohibitions. We will see the significance of that below.

We will start with the assumption that the video was done by a Jew. The Shulchan Aruch (Orach Chayim 318:1) rules like the middle opinion in Ketubot 34a, that if one violated Shabbat intentionally, the result of his action is forbidden for the violator forever but is permitted for others after Shabbat. The Mishna Berura (318:5) comments that while the household of the violator may not use that which was done even after Shabbat, others can, including people whom the violator had in mind when he violated Shabbat. Therefore, ostensibly, even your relative might be permitted to benefit from the video.

However, we must consider two issues. The K'tav Sofer (OC 50), regarding a restaurant, posits that while generally a Shabbat violator may sell the food he cooked on Shabbat, that is because he is penalized for his violation in that he cannot eat the food himself. However, in a case of someone who regularly cooks on Shabbat to sell to customers, the penalty must preclude his doing according to plan, so that it is forbidden for him to sell. Consequently, it is forbidden to buy from him. While this could forbid the celebrants to pay the videographer, this does not impact their showing it to you.

The bigger issue is the question of when Shabbat “ends” in this regard. There are opinions that anyone who wants to benefit needs to wait *bichdei sheya'asu* (the amount of time it would take to get the result if one started after Shabbat). This question is critical here, because one cannot video the bar mitzva after Shabbat, so requiring *bichdei sheya'asu* would forbid it forever. This concept is found regarding a non-Jew who did work on behalf of a Jew, even in cases that the Jew did not improperly tell him to do so (Beitza 24b). Two possible reasons are advanced for this *halacha*. Rashi (ad loc.) says that it is in order to not benefit from work done on Shabbat. Tosafot (ad loc.) says that it is to reduce the chance one will ask the non-Jew to do work. The Pri Megadim (Eshel Avraham 325:22) reasons that Rashi's reason should apply to a Jew who regularly violates Shabbat, whereas according to Tosafot's reason, we do not expect a religious Jew to ask a Shabbat desecrator to do work on Shabbat. The Mishna Berura (ibid.) adds a reason not to say *bichdei sheya'asu* for a Jew's violation – a Jew will not listen to a request to do *melacha*. One can argue that this does not apply to regular Shabbat violators. The Pri Megadim leaves the matter unresolved, and there is not a consensus among contemporary *poskim* (in Bemareh Habazak 1:31 we leaned toward leniency; Orchot Shabbat 25:(25) leans toward stringency). *Bichdei sheya'asu* is also less likely to apply to Rabbinic violations (see Mishna Berura 325:42).

If a non-Jew did the videoing, it should definitely require *bichdei sheya'asu*. On the other hand, the extension of the prohibition to benefit to all Jews is only for Torah-level violations, whereas for Rabbinic ones, it is only for the non-Jew's intended beneficiaries (Shulchan Aruch, OC 325:8). The Mishna Berura (ad loc. 38) includes members of the recipient's household and some of his guests in the prohibition, but based on primary sources (see Beit Yosef, OC 515), it is likely that a “relative” viewing the video is not included.

We have seen significant grounds for leniency; there are additional, creative grounds, but we do not wish to commit them to writing. Therefore, if you feel that watching the video helps maintain a good relationship with the family, not only **may** you watch the video, but you **should** do so. May your relationship help bring increased appreciation and observance of *mitzvot* to the bar mitzva and his family.

### “Behind the Scenes” Zoom shiur

Eretz Hemdah is offering the readership to join in [Rabbi Mann's weekly Zoom sessions](#), analyzing with him the sources and thought process behind past and future responses. Email us at [info@erezhemdah.org](mailto:info@erezhemdah.org) to sign up (free) or for more information on joining the group.

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# Igrot HaRe'aya - Letters of Rav Kook

## Public Response to Zealous Defense of Rav Kook – #308

**Date and Place:** 15 Sivan 5670 (1910), Yafo

**Recipient and Background:** Letter to the Editor of “Hamoriah,” which they published on 17 Sivan 5670. I did not find the letter referenced, but it was clearly effusive in praise of Rav Kook and the sale of the land for *Shemitta* and critical of those who opposed it.

**Body:** I must express my great pain over the things that rabbis from Yerushalayim wrote in a letter published in the newspaper “Ha’or,” of which I was unaware and unhappy. Although I know clearly that the writers, who are substantial Torah scholars and fearers of Hashem, intended to act for the sake of Heaven, still I believe that this is not the proper way to deal with disagreements over halachic rulings. Rather, we must judge favorably all of the sides and assume that each person intends to serve Hashem and provide the truth.

I am particularly pained by the exaggerated praises they wrote about me, which I unfortunately do not deserve, even partially. It would be terrible for me to consider myself a great man, even in comparison to a student of Torah, all the more so compared to serious rabbis. It is just that regarding the path of truth, and for the benefit of Bnei Yisrael and the Holy Land, even someone weak like me needs to say, “I am a great warrior, and I will not defer in the war of support of Hashem in sustaining *Eretz Yisrael's* Jewish community.” This interest has become relevant in our days through the Rock of Israel’s kindness in preparing a path for His nation’s remnant to return to the place which was originally our tent. I consider it an obligation to strengthen the adherence to the ruling that was produced by venerable rabbis, for the welfare of our holy community, His nation, and His lot. Blessings to all who have a straight heart and love truth, who anticipate Hashem’s salvation for His nation and lot, who value the clear signs of the emergence of the End of Days, as the mountains of Israel give their fruit and produce branches for the returning nation of Hashem. [May blessing come to] those who stand by my right side to help along with Hashem’s “right arm.”

## Kashrut on Soap – #309

**Date and Place:** 19 Sivan 5670 (1910), Yafo

**Recipient and Background:** Rav Baruch Meyers, Chief Rabbi of Haifa

**Body:** I hereby inform you that I have found no grounds for concern with the rabbinical certification on soap in Lod. I saw the whole production process. Everything is made from olive waste; there is no part of forbidden fat or other forbidden matter. I found among the producers an undoubtedly reliably observant person, and I tasked him to be the supervisor on an ongoing basis. Among the ownership partners, some are presumed to be reliably observant, with a connection to Torah and with fear of Heaven.

My opinion is that when you certify the Atid factory (in Haifa), you should use the same approach. You can rely on someone to be a constant supervisor even if he is not a kashrut professional but a worker who is known to be observant. Specifically, this supervisor must be reliable and steeped in fear of Heaven, when they will also make oil for eating, for then it will be necessary to take tithes. Especially if they will make sesame oil bought from non-Jews, it will be possible to rely on those who consider this to be produce whose preparation was finished by non-Jews and thus exempt from tithes, even if Jews buy it from them [and finish the process]. It will then be necessary to supervise carefully to separate between that which requires tithing and that which is exempt, and there should not be mistakes in the order of taking tithes. You will use your wisdom to do everything in the best way. May Hashem give you good counsel and enable us to raise the banner of His holy Torah on holy soil and raise the stature of the Jewish community of *Eretz Yisrael* with wisdom and fear of Hashem.

*We daven for a complete and speedy refuah for:*

**Itamar Chaim ben Tzipora**

**Nir Rephael ben Rachel Bracha**

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**Neta bat Malka**

**Ori Leah bat Chaya Temima**

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**Meira bat Esther**

**Together with all *cholei* Yisrael**

# P'ninat Mishpat

## Upper Property's Responsibility for Flooding

(based on ruling 82008 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) bought a property which he rents out to a factory, located above the plaintiff's (=pl) factory. There is a retaining wall between the properties (to prevent collapse of earth from def's into pl's property), and when the two bought their properties, there was a drainage pipe in def's property to prevent flooding pl's from rain. In 2020 (=ff), rainwater caused significant damage to pl's equipment. In the summer of 2021 (=sf), a large water tank in a third factory, above the two properties, exploded and, descending through def's property, its water caused further damage. Pl is suing for both events, claiming that def's removal of the pipe during construction work was responsible. Def denies removing the pipe before ff and claims that he therefore did nothing wrong. Regarding sf, def removed the pipe during the summer with the plan to install another one before the rainy season, and had no reason to expect sf.

**Ruling:** The fundamental halachic question is whether the owner of a higher property must take steps so that water not damage property below it. The Rama (Choshen Mishpat 155:4) says that the owner of the higher property is not required to prevent water that he does not own and to whose presence he did not contribute from going into his neighbor's property; the latter is to take precautions to protect himself. This is apparently contradicted by the Rama (CM 164:1) who requires the owner of a roof to keep it from allowing rain to damage another. The Netivot Hamishpat (164:2) answers that the latter source is talking about a case in which there is a partnership of sorts between the neighbors, which obligates each to the other. Therefore, in our case of neighbors who are not partners, def would not have been responsible to pay for upgrades. However, since def received the property with a pipe in it, he would be required to maintain the precautionary devices he received. Since he recently did work that now endangers pl's property, def must properly restore a pipe.

The sides disagree about whether the pipe was present during ff. During a relatively recent phone call between def, pl, and a supervisor in the third company, def apparently admitted that the pipe had been removed. Def claims he was confused during the conversation and misspoke. In fact, def presented two pictures showing no significant difference in the site before and after the alleged changes, and pl admitted that the pictures show no relevant change. (Pl argued that the dating of the pictures was mistaken, but it was proven that pl was wrong about that.) Since pl's admission was done in *beit din*, where a litigant knows he needs to be exact, pl's admission is more weighty. In this circumstance, def can claim he made a mistake during the phone call (see Shulchan Aruch, CM 81:23).

*Beit din* is not required to analyze whether def could be obligated to pay for the damage from sf. This is because twice during the adjudication, pl said that he would be fair to def and not demand payment for it. After such *mechila*, even if (far from clear) pl would have been deserving compensation from def, he can no longer demand it.

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