



Harav Shaul Israeli zt"l  
Founder and President

### Can One Give a Loan to Hashem? – part I

Harav Yosef Carmel

The obligation to protect the weak appears many times in our *parasha*, including the following examples: helping one whose load fell on the way; not handing over an escaped slave, not taking interest on loans; not taking critical objects as collateral from the debtor; not entering the home of the debtor; the requirement to pay workers on time; not taking the clothes of a widow as collateral; leaving certain parts of produce in the field for the poor. We cannot get into the details of these *mitzvot*, but the idea is preserving the rights of the borrower to live with dignity.

The best way to give *tzedaka* is to “teach one to fish,” as then the poor person will be able to provide for his family, and if he is fortunate, for others as well. Lending money to enable someone to start a hopefully successful business is the best system. In such a case, it does not have to be a loan but it can be an “investment,” in which the benefactor receives profits from the business, as long as he also is a “partner” regarding losses (i.e., not receiving his full investment back). Otherwise, profits are *ribbit* (usury). It is permissible to ask for financial assurances, whether co-signers or collateral, to ensure that what is owed is returned, as this is not one of the things the Torah forbids concerning loans.

The borrower has to try with all his might to return the loan. The Torah refers to a borrower as an “*eved*” (servant) of the creditor (Mishlei 22:7), and such terminology has far-reaching moral consequences. *Chazal* coined a parallel term – “It is a *mitzva* to pay to the creditor” (Ketubot 86a); this too should strengthen the borrower’s resolve. Our *parasha* promises the lender who follows the rules: “For you it will be considered an act of charity before Hashem” (Devarim 24:13).

The Torah warns greatly not to put pressure on the borrower who is unable to pay on time (see Shemot 22:24). *Chazal* say that this prohibition includes passing before the borrower for no good reason, which is embarrassing for him. This teaches a powerful lesson about being careful about the dignity of another, and certainly for someone who is forced to borrow and then unable to pay. It is even more obvious that one should not use more palpable pressure.

Let us address the question from the title – Can one lend to Hashem, or even more than that? A *pasuk* says “One who lends to Hashem is one who is merciful to the poor” (Mishlei 19:17). A *gemara* discussing *tzedaka* (Bava Batra 10a) continues shockingly. “Only because there is a *pasuk* can we say this – it is as if we can say that the borrower (Hashem) is a servant to the creditor of the poor.” This is a powerful message, one which echoes throughout the *parasha*.

To show how different the Torah’s approach to debtors is from that of other nations, we will see next week what other nations did in Biblical and Talmudic times with those who owed money.

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# Ask the Rabbi

by Rav Daniel Mann

## Rebuking Those Talking during *Davening*

**Question:** I find it very difficult to concentrate at my *shul* during *chazarat hashatz*, as some congregants talk, which disrupts my *tefilla* and the service's sanctity. The Shulchan Aruch (Orach Chayim 124:7) requires the congregation to be attentive during *chazarat hashatz* and forbids talking. I have approached the *gabbaim* about this issue, but they have been unwilling to act. Last week, out of frustration, I shushed someone who was talking, but this caused tension in the *shul*, and some complained to me. Was my response appropriate? What should I do in the future? [Upon inquiry, the querier said that the *shul* has a *rabbi*, with whom he discussed the matter years ago, and the *rabbi* did not do much about it. Besides this issue, he is satisfied with the values and actions of the *shul* and its membership.]

**Answer:** Indeed, the Shulchan Aruch (OC 124:7) quotes and rules like the Orchot Chayim, who disparages those who speak idle matters during *chazarat hashatz*. Furthermore, it is one of the few times that the Shulchan Aruch directs observers of a wrongdoing to scold the perpetrator. So, at first glance, you could not be more right.

Let us briefly put things in perspective. *Chazarat hashatz* is far from the most severe time to speak (see LTHP III, A-10); the critical thing is to have the nine answering the *chazan* for all the *berachot* (Shulchan Aruch, *ibid.* 4). There is a *machloket* about, when the quorum is clearly met, whether others can learn Torah (see Mishna Berura 124:17). On the other hand, it is disgraceful if, while the *tzibbur* stands before Hashem, members thereof are talking freely. This is both disruptive to people like you and a *chillul Hashem*, including in comparison to other religions' houses of prayer (see Aruch Hashulchan, OC 124:12). Perhaps because of the unseemliness or the tendency of our nation to slip into bad habits of such talking that the *poskim* tried to nip the problem in the bud with strong language and action.

Classic *tochacha* (rebuke) is done to change the actions of one who sinned knowingly. Although the *mitzva* exists nowadays, most follow the approach that one should not rebuke when it is not expected to be heeded, and, to the contrary, cause a negative reaction (see Yevamot 65a; see Amud Hay'mini, *siman* 10; regarding feared severe reactions, see Minchat Shlomo I:35). In most of today's Orthodox *shuls*, where people basically understand that they should not be talking, there is little concern of causing hatred of religion. However, as you witnessed, rebuke still causes friction, which should be avoided when it provides no gain.

There is less chance that *tochacha* will be successful when many people are in the wrong together. Psychologically, they may feel that if talking was a REAL problem, not so many good people would be doing it. Also, the rebuker becomes a "public enemy," i.e., easier to dismiss and criticize. Indeed, we find in several *poskim* resignation about the ability to "take on" those who talk during *chazarat hashatz* (Aruch Hashulchan *ibid.*; Shevet Halevi X:13).

It is not always a question of if to correct someone but when, how, and by whom it should be done. Consider the following application (see Rashi, Devarim 1:3) regarding timing. Yaakov, Moshe, Yehoshua, and Shmuel all waited until close to their deaths to rebuke their constituencies, out of concern that earlier rebuke might have caused them to change allegiances in favor of a path of evil. The same is true regarding who should be rebuking and how. The community leaders, especially the *rabbi*, are the ones who should be in charge of decisions and efforts.

Therefore, we recommend discussing the matter again with the *shul's* *rabbi*, who should have his finger on the pulse more than anyone else. His not taking a strong stand in the past certainly does not mean that he does not care. He is likely to request that you not make waves at all. He may give you some guidelines on how, when, and to whom to express your dissatisfaction with the talking. While it is sad to have to curb your correct emotions, this too is part of serving Hashem.

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## **Moreshet Shaul**

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

### **Responsible Innovation in the Oral Law**

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 61-62

When we speak of the Oral Law's value, people stress that the Written Law is often inexplicit and general, making it necessary for the Oral Law to make the Torah sufficiently understood and able to be fulfilled in practical life. This is true, but not obvious. If this were the need for an Oral Law, why was it fundamentally forbidden to write down texts of the Oral Law (see Gittin 60b)? It is also difficult to understand *Chaza'l's* far-reaching statement: "Hashem cut a covenant with Israel only because of the oral matters" (ibid.).

The Oral Law's main element is that Torah scholars were given the authority not only to pass on what they received from their teachers, but also to arrive at new conclusions. These ideas become part of the corpus of Torah, to the extent that even opinions like which we do not rule are not erased, as they contain elements of Torah. Undoubtedly, every deliberation and decision of a scholar is impacted by his essence, personality, and approach to things. While the Torah forms one's personality and imprints his logic and characteristics, this is only in regard to providing form and direction; it does not **create** the characteristics. Therefore, Hillel and Shamai had different fundamental styles, despite both learning Torah, and this played a role in the differences in rulings by the two academies they led.

The authority the Rabbis received to confer Torah status on their ideas is the great novelty that comes from the Oral Law. This authority is not very limited and does not have an end point. It is alive, renewing, and continual. For this reason, it was not meant to be written down, as writing gives it rigidity and finality.

However, there are limitations on the power to personally create, as it must conform with accepted rules; it must fit in a framework of continuity, not contradiction. It is along the lines of the verse, "The words of the scholars are like prods and like planted nails..." (Kohelet 12:11). The *gemara* (Chagiga 3b) comments: "Just as plants are fruitful and multiply, so too the words of Torah are fruitful and multiply." However, this is on condition that they are like nails – set and immovable. A very high level of wisdom is needed to preserve the proper balance between that which is set and that which is being renewed. Lack of clarity can turn planting into "cutting down the planted" (a phrase for heretical ideas).

Because of the Oral Law's double characteristic, Judaism has continued creating the corpus of Torah even after the Oral Law, as expressed in the Mishna and Talmud, was largely committed to writing. The wellspring continues to expand. New approaches to analysis and understanding, new insights and in-depth study, are added in every generation. Questions arising in practical life that could not have been imagined in previous generations raise new challenges for leading rabbinic experts. The rulings made on these enable the nation to continue the Torah's path of life in a changing reality. Occasionally, Judaism encounters challenges raised by students who did not learn sufficiently, who break the continuity of Halacha and claim they must change the Torah to make it relevant for the demands of the time. However, eventually we overcome the crisis, and the nation remains within the accepted channel.

We are in such conflicts these days, for example, in America, between those faithful to Judaism and different "innovators" – the Reform and Conservative. Occasionally, they assemble their "rabbis" to deal with issues, and they imagine they solve them with arbitrary decisions, unrelated to existing principles of Halacha. In that way, they permitted driving a car to synagogues on Shabbat, while limiting travel for pleasure. They permitted wine improperly touched by non-Jews if needed for *Kiddush* and *Havdala*. Any reasonable person realizes that these "improvements" have no basis in Halacha and are just destructive rulings, whose point is to accept what is happening instead of overcoming difficulties. How comical and illogical it is to permit these things on a limited basis, which is done just to quiet their conscience and make it easier to destroy everything. This is not the way of the Oral Law, which they only pretend to follow.

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# P'ninat Mishpat

## Return of Down Payment Due to War – part I

(based on ruling 84044 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiffs (=pl) ordered catering services by the defendant (=def) for *Shabbat Sheva Berachot* (=SSB) of their son, after the wedding that was to take place on Oct. 9, 2023. A party planner (=pp) found and did most of the interaction between def and pl, but pl paid def directly a down payment of 7,537 NIS. Because of the war, the wedding was delayed. Pl cancelled def's order quickly through pp and demanded a refund of the down payment. Def agreed to give a credit of 7,500 NIS, but only if pl would hire def for an event that costs 23,000 NIS or above. Due to the number of missiles sent at the region where SSB was to have taken place, SSB was moved to Jerusalem, at a hotel that did not allow outside catering. Pl tried to get a smaller credit for a smaller event, but def said that smaller events are not profitable. Pl points out that all the other service providers gave a full refund, but def responded that the down payment covers the supplies that he already bought and/or prepared and that pl had told him to give the food to soldiers, which he did. [We will deal with claims in installments.] Def claims that pl have no right to sue him, as he interacted only with pp, who was also responsible to make sure that def got paid. Therefore, if pl wants to sue, they should sue pp, and if pp wants to sue to allay her payments, she could sue def.

**Ruling:** It is not possible for def to preclude pl from suing him for a few reasons. Firstly, pl paid def directly, not through pp, and def sent the document enabling pl to use the credit directly to pl. This suffices to make it clear that pl has a direct financial relationship with def, not just that there are separate def-pp and pl-pp relationships.

Furthermore, pp acted as a *shaliach* (agent) of pl. In that case, the actions that pp took are treated as if they were done by pl, so that, again, the financial relationship is primarily between pl and def. The fact that pp took responsibility for payment if pl would not pay does not change this outlook. It just means that in addition to being an agent, she was also an *areiva* (a guarantor), which does not make pl less connected to def.

If there were a need, there is another construct through which to justify pl's demand to receive payment from def. There is a Talmudic concept called *shibuda d'Rabbi Natan* (see Ketubot 19a). According to this concept, if Levi owes money to Shimon and Shimon owes money to Reuven, then Reuven can choose to receive payment from Levi instead of Shimon. Therefore, even if the obligation goes through pp, pl would still be able to demand the money from def. The *gemara* (ibid. 110a) uses a parable to explain that it is unnecessary to have two different payments, if one payment from Levi to Reuven can suffice to settle all the debts.

Therefore, for multiple reasons, pl has full standing to sue def.

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