



Harav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat Hashavua

Vaetchanan, Av 11, 5786

Hearing and Proclaiming

Harav Yosef Carmel

In our *parasha*, we read the first *parasha* of *Kri'at Shema* (Devarim 6:4). We have discussed in the past that the term *Shema Yisrael* (Hear, O Israel) appears four times in the Torah, each relating to foundational topics of the Torah of Israel, the Land of Israel, and/or the Nation of Israel.

Now we will focus on the terms *shema* and *Kri'at Shema*. The root to hear comes up in another three contexts in our *parasha*, making it a central theme.

The *nazir*, Rav David Cohen, one of Rav Kook's outstanding disciples, spoke at length about the importance of listening, and we will look into an additional aspect. Using one's ear is a primary means to strengthen the connection between Jews. Listening is crucial for the ability to view others in the best possible light. The Shulchan Aruch (Choshen Mishpat 17:7) requires a *dayan* to repeat the litigants' claims. Sometimes this is the other litigant's first opportunity to internalize what the other side is saying. The ear, with which we listen, is also responsible for balance (both words in Hebrew use the root of *ozen*). A life of balance is a critical condition for a happy life. It is therefore not surprising that our connection with Hashem is also advanced through hearing/listening.

What does *Kri'at Shema*, the subject of the first *mishna* in *Shas*, mean? Tiferet Yisrael to that *mishna* provides four meanings for *kri'ah*: 1. To give a name (Bereishit 1:5). 2. To invite someone to come to the inviter (ibid. 47:29). 3. Reading written material. 4. To proclaim something before others (Vayikra 25:10). The Tiferet Yisrael says that the meaning of *Kri'at Shema* is proclaiming.

We propose that all four meanings are related to *Kri'at Shema*. Regarding #1, the first one to call Hashem by His Name was Avraham, and every Jew has a basic responsibility to follow his lead. A person's whole identity is forged by doing so. The idea of #2 is also very present. By reciting *Shema Yisrael*, we proclaim our interest in being close to Hashem and ask Him to be close to us. #3 also applies, as we read that which is written in the Written Law, which Hashem gave to Moshe. Involvement in this Torah reading opens the path to being servants of Hashem. #4 certainly applies, as we are supposed to publicize belief in Hashem among all the children of Avraham, Yitzchak, and Yaakov and unite them around this idea. This proclamation is unifying if it is done in a spirit of listening.

We can also appreciate why the *mishna* presents the *mitzva* in plural. The purpose is that the whole community and nation, with all their shades and styles, will unite around this proclamation.

In the merit of this unity, may we hear the proclamation: "I heard the sound of the words of this nation that they spoke; they have done well with everything they said" (Devarim 5:25). "Now Israel, listen to the decrees and the laws that I am teaching you to do, so that you will live and come and inherit the Land that Hashem the G-d of your fathers is giving you" (Devarim 4:1).

In light of the upcoming day of Tu B'av, we wish all of *Am Yisrael* that we shall be redeemed in the merit of loving one's counterpart without specific reason.

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Ask the Rabbi

by Rav Daniel Mann

Onions in Public

Question: I, an obviously Jewish man, was on an intercity train (3-hour trip) in Europe, and took out a salad with onions to eat. Someone sitting a few rows away came over to complain, so I closed it up. Later I went over to ask him why it bothered him, whether he was allergic, and he started cursing me. I wondered afterward whether according to Halacha, he had a right to prevent me from opening the salad.

Answer: The better guess is that your unpleasant encounter stemmed from blatant or partial anti-Semitism (i.e., onions disturb him greatly but he treated you abusively because you are Jewish). However, you did not ask and we will not offer opinions on how to react to anti-Semitism in its myriad forms.

Most of the discussion of the impact of one person's property or actions on another person focuses on one who is rationally using their own property, but it also affects his neighbor (see Shulchan Aruch, Choshen Mishpat 155 at length). Included in the list of things that under certain circumstances are major offenses that can be protested are "bathrooms" and smoke, which are offensive to the smell (ibid. 36). The ability to complain is very similar in the public domain (see Tzitz Eliezer XV:39). Each of the people have the right to be there, but one should not cause undue hardship to the other.

Could food that many/most people enjoy be considered objectionable? Perhaps the most instructive source on this is an *aggadic gemara* (Sanhedrin 11a). Rabbi Yehuda Hanasi (Rebbe) was giving *shiur*, and one of the students had eaten enough garlic to significantly disturb him. Rebbe requested that whoever the "offender" is should leave the room. Rabbi Chiya, who had not eaten garlic, left the room, followed by all the others. When confronted by Rebbe's son, Rabbi Chiya said that he had to cause the exodus in order to save the offender from embarrassment.

The simple reading of the *gemara* is that Rebbe decided that the *talmid* had no right to go to a shared place with the smell of garlic, and that Rabbi Chiya agreed in principle, just that he felt that this needed to be carried out in a manner that protected the offender's dignity. It is possible to claim that the place of the *shiur* was Rebbe's personal domain, so that he could remove someone without "legal cause." However, it is unlikely that he would have taken a step in that manner without it being something that anyone could have demanded.

It is difficult to say clearly how to apply this to your case, as one might argue that garlic has a more potent and offensive odor than onions. Also, on a long train ride with many passengers, where people regularly eat full meals, it is more surprising that one would object to some onion in a salad than it would be to the same smell in a *shiur* room.

However, this does not totally close the door on protest. The *gemara* (Bava Batra 23a) discusses what we could call neighborly "super-offenses," in which even if one seems to have acquired *chazaka* (the affected party's implied acceptance of the situation), he can be forced to stop his usage. The *gemara* brings Rav Yosef's claim that even something that is not objectively considered damaging is treated as such if the affected person is particularly sensitive to it. The Shulchan Aruch (CM 155:39) codifies this ability of the sensitive to protest. On the other hand, he clarifies (ibid. 41; see Be'ur Hagra, CM 155:119; Aruch Hashulchan CM 155:33) that to enjoy special power to object one must prove his sensitivity. In your case, the likely anti-Semite would have difficulty doing so, and he also preferred to curse you rather than explain any hardship on his part. Regarding future consideration, if you believe someone who is claiming hardship, you should refrain from eating rather than cause him to suffer.

It is likely that the operators of the train have guidelines that include such cases, which would obligate passengers. Therefore, if a dispute arises, one might seek assistance from a member of the staff, who may be familiar with the policies and/or able to suggest practical solutions.

"Behind the Scenes" Zoom shiur

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Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.

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The Teachings of Your Mother

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 174

"Moshe commanded us the Torah, a legacy for the community of Yaakov" (Devarim 33:4). The *pasuk* contains two elements – a commandment and a legacy. This conceptually resembles Mishlei 1:8 – "Listen, my son, to your father's discipline, and do not forsake your mother's teachings."

The customs of Israel are connected to "do not forsake" (see Pesachim 50b). *Knesset Yisrael* (Congregation of Israel) is the "mother of the nation" (Berachot 35b), and actualizing the customs in practice depends on the mothers of Israel. "The customs of Israel are [part of the] Torah" – the Torah of the mother. There is the Written Torah and the Oral Torah. There is also the Torah of the heart, which is the Torah of the mothers. There are no formulated laws; there is no Shulchan Aruch, with chapters and paragraphs. However, this too is Torah, a Torah whose existence is necessary for there to be other Torahs. Perhaps, this is behind Rav Saadia Gaon's statement: "Our nation is a nation only due to its Torahs" (HaEmunot V'haDeot 3:7). The Kuzari developed the idea of a chosen Israel, explaining it based on the fundamental concept of their special status, as the main line from Adam, who was formed by Hashem's Hand.

The whole Torah can be capsulized in the desire to cling to Hashem's attributes – "Just like He ... so too you ..." (Shabbat 133b). The Rabbis tell us that the Givonite [converts] were distanced from Israel because they displayed traits that disqualified them from uniting with Israel (Yevamot 79a). It is for good reason that Hillel stressed to a conversion candidate that [good interpersonal relationships] are the basis of the Torah (Shabbat 31a). "Do not forsake" implies that there is a need to stress this, as the confluence of the two Torahs can cause one to see the value of natural feelings, which is not the case.

The resurrection of Jewish nationalism was designed by its proponents to present it as a lone crucial value. There was a thought that it was possible to educate the generation based on the values of the Prophets. They forgot one thing – Jewish excellence includes the trait of belief in the Creator and Leader of the world. Whether Achad Ha'am's "spiritual Zionsim" or Herzl's "political Zionism," we must look at the fruit of their "schools." Nowadays, even secular teachers admit that the generation did not live up to the hopes that were pinned on it. Not only did it not succeed to advance these values, but they have been looking to foreign nations [for emulation]. Independence has not turned out to be a device to strengthen spiritual independence but the opposite, to justify imitating popular things among foreign nations.

Additionally, everything that is connected to the State and Jewish uniqueness has been weakened. The battle to recognize intermarriage and the willingness to turn away from land settlement are the clearest signs of a lack of connection. Jewish attributes are not characterizing our society. The gap between sectors is widening, as those who are closer to the various centers of power use their proximity for personal welfare.

We have thus learned that the Torah of the mother requires the discipline of the father!

On the other hand, we must never disregard belief in *Knesset Yisrael*. It is told of a Marrano Jew, who proclaimed: "Master of the Universe, You make decrees upon us and test us. We proclaim that all of this will not work." In our days, we may also be able to – despite the above – stress this in relation to belief in unique Jewish values.

The important job of the Jewish woman has returned. This is the woman who makes due with the minimum, exudes light and warmth in the house, and sees a holy role in educating her young children. She sees modesty as the approach of the Jewish mother and as a path to emulate. There is depth to educating children; it requires a seeing eye and a hearing ear; one must learn how to discipline and reward children.

Political independence will be lacking if it is not accompanied by the emotions of [authentic] spiritual independence.

We daven for a complete and speedy refuah for:

Itamar Chaim ben Tzipora
Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
Neta bat Malka

Avraham ben Gitel
Tal Shaul ben Yaffa
Meira bat Esther

Together with all cholei Yisrael

P'ninat Mishpat

Quitting after Preparing Incomplete Plans – part II

(based on ruling 86018 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) hired the plaintiff (=pl) to emend an architect's plans for expansion and serve as the job's engineer for 10,000 NIS. After receiving a 1,500 NIS down payment, doing significant work, and paying a draftsman 1,800 NIS, it was discovered that a neighbor (=ngbh) submitted expansion plans that def felt compromised his project. When he asked pl to help oppose ngbh's plan, pl realized that he was hired to do engineering work for ngbh. Pl refused to oppose ngbh's plans, which he said were fine, and def delayed his project open-endedly, after grumbling about conflict of interest, until there was clarity about ngbh's expansion. Pl asked for additional partial pay, and def was reluctant to pay a substantial sum, claiming that pl did next to nothing. Pl said that under the circumstances, he would not continue with def, and def said that if so, he will not pay anything.

Ruling: [Last time we saw that pl was not disqualified by conflict of interest and that his quitting was justified].

Contract specifications for partial pay: The contract explicitly allows either side to stop in the middle and says that payment will be made for "all the sh'lavim (stages) that pl executed." A sh'lav literally implies separate stages of accomplishment, as opposed to a continuum of work. Arguably this refers back to the four stages of payment (see last week), in which case, pl would not deserve any more money before reaching the second stage. Def is aided by the rules of following the exact language of a document (Shulchan Aruch, Choshen Mishpat 61:15) and that the one who wants to extract money has the "lower hand" (ibid. siman 42). However, it is illogical that "all stages" refers to stage 2 and 3 alone (1 is before any work and 4 is when all work is finished). Also these payment stops are not described as stages of work. For other reasons, it would also come out that this wording rendered the clause of no consequence, which is not reasonable (ibid. 42:9). Therefore, we understand "sh'lavim" as pieces of significant work.

Should pl be paid if def did not benefit? If a worker quits in the middle of a job and as a result the employer did not benefit from the work, that is grounds for him not to receive (based on R. Dosa, Bava Metzia 76b). However, when the employer is responsible for the worker stopping to work, the worker gets paid for what he did (Rama, CM 333:4), and it does not make a difference if he fired the worker or caused him to quit.

How to evaluate the work done: Pl wants to be paid for the 10 hours he worked on the project plus for the 1,800 NIS he paid to the draftsman. As a documented expense, pl deserves the full reimbursement for the draftsman, but there is no reason to switch the nature of the payment for his own work, which is for advancing the project. Pl claimed that he did 75% of the work necessary to reach the 65% stage of the job. When a worker does work for an employer based on his request, and the worker alone knows what he has done, he is generally believed (see Rama, CM 91:3). In this case, where pl's credibility is strong, we accept his claim. We only make a 5% reduction due to lack of full evidence, which provides a reason for compromise.

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