



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

PARASHAT HASHAVUAH

Eikev 20 Av 5771

Just Fear of Heaven? It Depends When

A *drasha* from 5708 (1948)

Harav Shaul Yisraeli - from Siach Shaul, pp. 493-4

"Now, Israel, what does Hashem, your G-d, ask of you, just to fear Hashem, your G-d, to follow all His ways and to love Him and serve Hashem, your G-d, with all your heart and all your soul" (Devarim 10:12). The *gemara* (Berachot 33b) questions the most surprising part of this *pasuk*: Is the demand so small that Moshe would say "just"? The *gemara* says that from Moshe's perspective it was a small thing. That answer begs a follow-up question: wasn't Moshe aware that this was not so simple for other people?

Yirat shamayim (fear of Heaven) is the main thing that is not in Hashem's Hands, but in our own (ibid.). One can then ask: how we can ask in *Birkat Hachodesh*, "Give us life that contains fear of Heaven and fear of sin" if it is not up to Him?

Before Moshe got up to our *pasuk* that captures the essence of Judaism, he reviewed Bnei Yisrael's recent history, with its miracles and crises, along with commandments to remember and not to forget what they had seen (see Devarim 7:18; ibid. 8:18). These commands to remember come in two contexts: before the conquest of *Eretz Yisrael*, when the people could ask how they would succeed; after the success is realized, when people are liable to claim, "My strength and the power of my hand" were responsible. The solution in both cases is to remember. Indeed, the greatest foe of Judaism is forgetting; one who remembers believes and sees. Upon seeing Hashem's involvement in the past, he does not fear the future and knows how to attribute the success correctly. This is true throughout history. In both times when Hashem's face is hidden from us and in times when it shines upon us, we must consider the lessons of the past and recognize Hashem's Providence.

Let us return to answer the questions. At the time of great success, for example, at the time Moshe was speaking, when the people had recently witnessed many miracles and were on the verge of entering the Land, it was relatively easy to fear Hashem. One can see that Hashem "makes battles, has great strength, and is the master of wonders," that He observes all, and arranges all. When terrible events occur, which make one wonder how Hashem could have allowed them to happen, it is difficult to honestly say, "All of this befell us and we did not forget You or belie Your covenant" (Tehillim 44:18).

When we ask for "life that contains fear of Heaven" we are asking for successful times when basic fear of Hashem is easier to come by. While it is always ultimately up to us, we pray that we will not be tested with times when it is harder to accomplish it.

Chazal speak of a year that is poor in its beginning and rich at its end (Rosh Hashana 16b). This year (5708= 1947-8) was such a year. We began the year like paupers at the doorway, wondering "how will we be able to acquire [the Land]." Miraculously, we did! We received the "life that contains fear of Heaven." Now it is our responsibility to put things in perspective and remember that it is Hashem who gave us the strength to succeed, and use this outlook to reach *yirat shamayim* under conducive circumstances.

Hemdat Yamim
is endowed by
Les & Ethel Sutker
of Chicago, Illinois
in loving memory of
Max and Mary Sutker
and
Louis and Lillian Klein, z"l

This edition of
Hemdat Yamim
is dedicated to the
memory of
Rabbi Shlomo Merzel
o.b.m.,
who passed away
on the 10th of Iyar 5771

This edition of
Hemdat Yamim
is dedicated
to the memory of
**R' Meir
ben Yechezkel
Shraga Brachfeld**
o.b.m

Hemdat Yamim
of this week is
dedicated in memory
of
**Yitzchak Eizik ben
Yehuda Leib Usdan**
a"h, whose Yahrzeit
is the 29th of Av

Dedicated in
memory of
**Gital Gila Bat
Eliyahu Michael**
a"h
on the occasion of
her yahrzeit,
Av 21st

Eretz Hemdah

Deans: **Harav Yosef Carmel, Harav Moshe Ehrenreich**
2 Bruriya St. corner of Rav Chiya St. POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626

Email: info@eretzhemdah.org web-site: www.eretzhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code
American Friends of Eretz Hemdah Institutions
c/o Olympian, 8 South Michigan Ave., Ste. 605, Chicago, IL 60603, USA
Our Taxpayer ID #: 36-4265359

Ask the Rabbi

by Rav Daniel Mann

Question: I am *gabbai* at a *minyán* (without a rabbi). Sometimes, at this time of year, someone who is wearing short pants will want to be *chazan*. In the past we did not allow it, but now some object to my making/enforcing such rules. Are they right?

Answer: When an individual *davens*, he is standing before Hashem and should be dressed respectably (Shabbat 10a; Shulchan Aruch, Orach Chayim 91). The Shulchan Aruch (ibid. 4) says that this includes covering one's legs when this is how people dress before important people. The Mishna Berura (91:12) adds that one should wear a hat, explaining that this is the way people dress publicly. (In some circles, this is still true; in others, this does not apply at all). The Shulchan Aruch (OC 98:4) says that since *davening* corresponds to bringing *korbanot*, one should have nice clothing for it, as a *kohen* does for his service.

The *mishna* (Megilla 24a) says that a *pocheiach* (one who is inappropriately dressed) may call others to answer his *Kaddish* and *Barchu* but cannot do *Kri'at Hatorah*, be *chazan*, or perform *Birkat Kohanim* (*duchen*). Most *poskim* understand that these standards are binding and enforceable for a *chazan*, whereas for an individual it is more a matter of propriety.

When is one a *pocheiach*? The Rambam (Tefilla 8:12) says that it is when one's shoulders are exposed. The Shulchan Aruch (OC 53:13) says it is when the clothes are torn so that his arms are exposed. This ruling generated discussion regarding being a *chazan* with a short-sleeved shirt (see Yechaveh Da'at IV, 8; Yitzchak Yeranen I, OC 18). We accept the approach that it depends whether one would dress that way before an important person (whom he sees regularly), and in most of our communities short sleeves are fine (see Ishei Yisrael 14:(27)). (No sleeves is difficult to permit.)

However, the broad consensus of *poskim* (which fits with the societal norms of our communities) is that wearing shorts is considered underdressed for any semi-formal setting and is unacceptable for a *chazan* (Yechaveh Da'at ibid.; see Sha'ar Shimon Echad II, 26). Therefore, your community and you, as their agent, have every right to choose as *chazan* only those who are wearing long pants. Of course, it is crucial to present the matter sensitively, but people have a responsibility to respect the practices of a community, all the more so when this is the standard halachic indication. The *mishna* does distinguish between different parts of *tefilla*, so it might be permitted and wise to let such a person be *chazan* for *P'sukei D'zimra*.

What if the community wants to allow *chazanim* wearing shorts? Rashi (Megilla 24a) says that the problem of *pocheiach* (explicitly, in regard to *duchening*, but probably also for a *chazan*) is the matter of *k'vod hatzibbur* (the honor of the community). One can then claim that if the community waives any complaints, it is permitted. However, the Tiferet Yisrael (Megilla 4:45) says that it is not a matter of showing respect to the community but of the community as a group showing respect to Hashem. Let us realize what public *tefilla* is. Instead of going about approaching Hashem ourselves, we join together. The *halachot* of choosing a representative to lead the delegation are quite exacting (see Orach Chayim 53). This is because our choice of a representative should send the right message, and his being dressed in a manner that is at least presentable in the higher echelons of society is a factor in this.

Regarding a more serious shortcoming of a *chazan*, we presented an argument that when the whole group shares a common shortcoming, having a *chazan* with the same shortcoming does not send the wrong message (see Bemareh Habazak III, 6). The same argument can be made here. If (almost) the whole group is dressed in shorts (not infrequently, in camp or on a trip), then even if society as a whole does not view this as respectfully dressed, in that context, the *chazan* might be allowed to wear shorts, as this is the standard dress for this group in this circumstance.

“Living the Halachic Process”

We proudly announce the publication of our second book in English.

“Living the Halachic Process volume II” a selection of answers to questions from our Ask the Rabbi project. A companion CD containing source sheets for the questions is also available.

In honor of the book's debut, we offer it at the special rate of \$25

Special offer: buy both volumes for the price of \$40.

Contact us at info@eretzhemdah.org

Have a question?..... E-mail us at

info@eretzhemdah.org

Ein Ayah

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

Knowing Hashem from Childhood

(condensed from Ein Ayah, Berachot 7:26-27)

Gemara: Rav Nachman said: A child who knows whom we bless counts for a *zimun*. Abayei and Rava were sitting before Rabba. Rabba asked: "Whom do we bless?" They said: "*Rachmana*" (Hashem, in Aramaic). "Where does He live?" Rava pointed to the roof. Abayei went outside and pointed to the sky. Rabba said: "Both of you will be rabbis."

Ein Ayah: No one can grasp Hashem's essence. Therefore, the idea of knowing Him is relative and depends on the level of the person. A person is created with all the personal attributes needed to reach his personal *shleimut* (completeness), with the most crucial ones developing earliest. Recognition of Hashem is the first stage in embarking upon a life of morality. When one gets a good start on it in his youth, he sees blessing in it throughout his life. Therefore, the internal feeling upon which knowledge of Hashem is built must be present from an early age, (i.e., when he "knows whom we bless"), even as it develops along with his wisdom.

This feeling includes appreciation for what one has received. Before he can explain cognitively for what and to whom he has appreciation, he naturally feels that he should turn to some great and lofty entity known as Hashem with appreciation. That is why a child is included in the ranks of those who glorify Hashem's Name before he can understand Hashem philosophically, for his emotional recognition of Hashem is a true one. The natural connection, which in any case, philosophical inquiry should bring on, suffices. After all, "Hashem made man straight" (Kohelet 7:29), and when properly educated, he can preserve the straightness his Creator granted him.

The natural inclination to know Hashem deeply is found more strongly among people of stature. Furthermore, the specific path they will eventually take in seeking out Hashem is imbedded in them in advance. Some scholars have an approach and connection to the Divine that is more focused on truths that are more directly linked to Hashem, i.e., the Torah and its intricacies. Others cannot be so limited in scope and reach the level to deal with a variety of ideas and connect them to the greatness of Hashem that they intuit with a highly developed thought process. They can go beyond the strict focus and understand that which transcends words, while realizing that everything must be true to the details of the Torah. This is similar to what the Rambam (Moreh Nevuchim 1:15) says about the angels in Yaakov's dream, who went up and down the ladder. In other words, one can rise to high philosophical levels and bring them down to earth.

Rava pointed at the ceiling because his inclination, even as a child, was to focus in a more confined manner on Torah as his connection to Hashem. He was happy to find his place within the "tent of Torah." Abayei was inclined to seek Hashem in more open areas, and thus went outside to point to the endless sky. The inclinations as children found expression in Rava and Abayei's respective adult lives. It is not surprising that the *gemara* (Rosh Hashana 18a – many *Rishonim* say that the *gemara* referred to Rabba, not Rava) says that Rava was involved exclusively in Torah study, whereas Abayei was also involved in acts of kindness, and therefore Abayei lived longer. Rava was so connected to Torah and saw in it his happiness and calling to the extent that he could not take himself away to be involved in other matters. That is why we accept Rava's Torah rulings above Abayei's, because a focused wisdom is often closer to the practical wisdom of ruling. As we find regarding Rabbi Meir (Eruvin 13b), if one is too unique in his approach, his friends cannot grasp his thought process and the halacha does not follow him. While both approaches are good and holy, the more focused one is closer to set halacha, the blueprint for our actions. Perhaps for the same reason, halacha is not set by prophecy but by more cut and dry halachic rules.

[Responsa B'mareh Habazak, Volumes I, II, III, IV, V, VI and now VII:](#)

Answers to questions from Diaspora rabbis. The questions give expression to the unique situation that Jewish communities around the world are presently undergoing. The answers deal with a developing modern world in the way of "deracheha, darchei noam". The books deal with the four sections of the Shulchan Aruch, while aiming to also take into consideration the "fifth section" which makes the Torah a "Torah of life."

Special Price: \$15 for one book or
\$90 for 7 volumes of Responsa Bemareh Habazak (does not including shipping)

Encroachment on Another's Livelihood Regarding Publishing

(condensed from Shurat Hadin, vol. VIII, pp. 197-203)

Case: The plaintiff (=pl) published an improved edition of a classical *sefer*, inserting vowels, punctuation, and footnotes, fixing the text by comparing 16 editions, adding translations of passages from Ladino, and "opening up" acronyms. He claims that the defendant (=def) copied and published an essentially identical edition with small additions, which reduced pl's market. Pl demands that def stop sales and publication of the *sefer* and pay damages. Def says that while he was aided by pl's edition, so did pl use 16 editions. He denies using pl's work on a wholesale basis and claims that he hired his own grammatical expert (who refused to testify).

Ruling: [Without getting into details,] professionals confirmed that def copied straight from pl's edition and then added in changes to "cover his tracks." Pl demonstrated how his work is qualitatively different from previous editions, whereas def's edition has only cosmetic changes.

Are there copyright rights in regard to improved editions of old books? Let us consider the source of such rights in general. The Chatam Sofer writes that the prohibition on infringing on a *sefer's* author's rights is a special institution so that those who are involved in a *mitzva* are not harmed. He also points out that a Jew who tries to remove his counterpart from a job he began is called a wicked person, where the following Rama (Choshen Mishpat 386:3) provides classical precedent. Reuven lent money (to a non-Jew) with interest and Shimon convinced the borrower to return the money and borrow from Shimon. While the Rama says that Shimon does not have to pay, he says that he is called wicked. This is all the more so in our case where pl is an *avrech* whose main livelihood is from sales of his work, and they have been significantly reduced since def's edition came out.

The Chatam Sofer (Shut CM 79) addresses a similar case of someone who published a previously written work and explains why other people are forbidden from putting out similar editions. While it is not naturally forbidden, it is logical to forbid it because he relies on the expectation that others will not come and cut into his sales. The Pitchei Choshen (IV, 9:2) wonders whether that assumption applies in our time when *seforim* are republished on a regular basis. However, the limited scope of the prohibition applies only to a simple reprinting, not to one which qualitatively improves the old edition and then someone "steals" the additions.

The Shoel U'meishiv (I, I, 44) says that an original author has exclusive rights, based on *hasagat g'vul* (the rules of encroachment), to publish for as long as he wants, even without rabbinical bans that are often added. The reason time limits on the ban used to be given is because after the author sells his stock he is happy that others spread his work. In the case of reprinting old works, assuming inheritors cannot be identified, one who prepares it for publishing can forbid others from essentially photocopying that which he did.

Therefore, def cannot print or sell any more volumes. Pl is willing to buy outstanding copies from def at price value, and def must reimburse pl a reasonable amount for past damage.

Mishpetei Shaul

Unpublished rulings by our mentor, Maran Hagaon HaRav Shaul Yisraeli zt"l
in his capacity as dayan at the Israeli Supreme Rabbinical Court.

The book includes halachic discourse with some of our generation's greatest poskim.
The special price in honor of the new publication is \$20.

Do you want to sign your contract according to Halacha?

The Rabbinical Court, "[Eretz Hemdah - Gazit](#)"

Tel: (077) 215-8-215 beitdin@erezhemdah.org Fax: (02) 537-9626

Eretz Hemdah - Gazit serves the public in the matter of dispute resolution according to the Halacha in a manner that is accepted by the law of the land.

While drawing up a contract, one can include a provision which assigns the court jurisdiction to serve as an agreed upon arbitrator.

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinate's rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.