



HaRav Shaul Israeli zt"l
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HEMDAT YAMIM

Parashat HaShavua

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Zera Yisrael

Harav Yosef Carmel

We have been dealing, over the last few weeks, with ideas to help integrate *olim* from the Former Soviet Union into Israeli society as full Jews. A group with a real obstacle is children of Jewish fathers and non-Jewish mothers.

They are, of course, not Jewish unless they undergo conversion. Yet, it is our opinion that we should not look at them as if they have, in the meantime, no connection to the Jewish People. The great majority were treated as Jews in the Soviet Union, where a citizen's nationality is determined by his father, not his mother. As a result, they suffered from anti-Semitism. How shocked were many, upon arriving in Israel, to find out that halacha does not view them as Jewish and that they cannot get married here?

Many of these people declared, by making *aliya* and by the way they integrated into Israeli society, that they view themselves as Jews. "Your nation is my nation," as Ruth declared, they fulfilled. Yet, before them still stands the demanding process of conversion, which includes the acceptance of "your G-d is my G-d."

Let us try to understand what the difference is between those with a matrilineal and a patrilineal link to Judaism. The *gemara* (Kiddushin 68b) learns from the *p'sukim* "Do not marry them [non-Jews]," followed by "for he will remove your son from Me" that one's son from a Jewish woman is considered his son, whereas his son from a non-Jewish woman is not the son of his Jewish biological father. This is the unanimous ruling of all halachic authorities.

Rav Moshe Isserles, the preeminent codifier of the Ashkenazi community, taught us the following novel idea on the matter in his notes to the Tur, Darchei Moshe (Even Haezer 156). He cites the Ohr Zarua, a great, early Ashkenazi *Rishon*. He raises the possibility that the idea that a Jewish male's child from a non-Jewish woman is not considered his is true only on the level of Torah law, but that Rabbinically he might be considered the Jew's son. What does it mean to be his son Rabbinically? We certainly cannot let him or her marry a Jew! We can't count him for a *minyán*! Rather, one prominent ramification is that the father has the responsibility to try to bring him into the fold by arranging for him to accept the Torah and convert.

Based on this and other sources Sephardic Chief Rabbi Rav Uziel came to the conclusion that there is a concept of *zera Yisrael* (the seed of Israel), which gives responsibilities to the Jewish father of the non-Jewish child. Arranging for the conversion is a form of atonement, so that his biological son does not stray further from Hashem and certainly does not come to hate Hashem and His *mitzvoth*, including those in which even a non-Jew is commanded. We rely on the training he should receive under his father's tutelage to cause him to uphold the commitments accepted with conversion.

We certainly should not create unnecessary obstacles and push away the candidate, as we often do for other candidates, regarding the child of a Jewish man. To the contrary, the State of Israel should try to bring close all the members of this group to avoid further assimilation and distress. If they are ready to undergo a serious conversion process, let us welcome them with open arms and a warm smile.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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.
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Ask the Rabbi

by Rav Daniel Mann

How Many People Together to Start *Shemoneh Esrei*? – part I

Question: I *daven* at a small *minyan* at which some people *daven* slower than the rest and others come late. We do not always have ten to start *Shemoneh Esrei* with the *chazan*. Should we wait for ten, or is six enough?

Answer: [We will divide our discussion into two. This week we will analyze the main sources and logic of the competing positions.]

There are two classical sources that are cited as the source that six men reciting *Shemoneh Esrei* in the presence of another four men in the room is considered *tefilla b'tzibbur* (davening with a *minyan*). The Rambam (Tefilla 8:4) describes *chazarat hashatz*, with everyone listening to a *chazan*, as the main element of *tefilla b'tzibbur* and then says that it is sufficient for six of the participants to be people who have not yet *davened*. We apply the rule of following the majority to set the character of the whole, and thus this is considered a *minyan*. Many see this as evidence that the Rambam holds that six people *davening* in the presence of ten is *tefilla b'tzibbur* (see Yechaveh Da'at V:7).

The Magen Avraham (69:4) says that while *chazarat hashatz* can be done for even one person who has not *davened*, it is preceded by a silent *Shemoneh Esrei* only if six men are presently *davening*. Several *Acharonim* (including Minchat Yitzchak IX:6, based on Shulchan Aruch Harav 69:5, and Mishna Berura 69:8) understand that the reason the silent *Shemoneh Esrei* before *chazarat hashatz* is justified is because it is considered *tefilla b'tzibbur*. Again, we ostensibly see that six is enough in this regard.

Apparently supporting the other camp, the Chayei Adam (19:1) says that the main element of *tefilla b'tzibbur* is having ten men *davening Shemoneh Esrei together, as opposed to the misconception that a *minyan* for *Kaddish*, *Kedusha*, and *Barchu* suffices. This seems to indicate that six *daveners* plus four others present is not a fulfillment of *tefilla b'tzibbur*. Perplexingly, the Mishna Berura cites without comment both the Magen Avraham/Shulchan Aruch Harav (69:8) and the Chayei Adam (90:28). Members of the "lenient camp" explain the Chayei Adam as stressing that *Kaddish/Kedusha/Barchu* is not enough; by ten, he meant a majority of the ten men *davening* in the presence of the others.*

The stringent camp is perhaps best represented by a compelling (in my humble opinion) set of arguments by Rav Moshe Feinstein (Igrot Moshe, Orach Chayim I:28-30). We start with halachic logic. The idea of six counting as a *minyan*, based on a majority, makes sense when there is a full quorum involved in the matter at hand, but a minority is lacking in some regard (e.g., they already fulfilled their obligation). Then we say that since the majority of the group is valid, the missing element can be overlooked. We turn to the prototype of following majority, in a court, as an example. While when three *dayanim* arrive at different decisions, we follow the two, when there are only two *dayanim* or one of the three *dayanim* is unable to arrive at any decision, majority cannot be used. So too, when six people are *davening Shemoneh Esrei* and four are taking off their *tefillin* after the early *minyan*, there is no *minyan* involved in *tefilla* and thus no *tefilla b'tzibbur*.

Rav Moshe (ibid. 28) points out that the Rambam is not relevant to our discussion, as he refers to *chazarat hashatz* in which all ten are actively involved. After all, listening to the *chazan* constitutes full participating in *chazarat hashatz*. Following the majority just solves the issue of the weaker connection of those who already *davened*. (Shulchan Aruch, OC 124:4 supports this distinction.) The Magen Avraham (/Mishna Berura) can be understood as being based on the quality of *chazarat hashatz*. If six obligated plus four others are doing so, it is complete enough to justify it being preceded by a preparatory silent *Shemoneh Esrei*, even though its participants are not credited with *tefilla b'tzibbur*.

Next week we will put things into halachic and philosophical perspective and give basic recommendations.



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Ein Ayah

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

Proper Foundations of the Home

(condensed from Ein Ayah, Shabbat 2:192)

Gemara: *Mishna:* There are three things a man must say within his home as Shabbat is about to enter: “Did you take tithes? Did you take part in the *eiruv*? Light the candles.” *Gemara:* From where do we know this? “You shall know that there is peace in your tent and relate to [the situation in] your home, and you shall not sin” (lyov 5:24).

Ein Ayah: The final purpose of every positive and negative *mitzva* in the Torah is the impression of goodness and sanctity it makes on the soul. Therefore, those things that follow the proper set custom in good Jewish homes have full value when the master of the house is fully apprised that they were done properly. The realization on his part brings the influence into his heart. That is why he should ask members of his household.

This is his way of knowing that there is peace in his “tent,” with the laws of the Torah being observed within. When he takes an active role in the observance in the home, the whole house is elevated along with him. The good things that go on should be by virtue of his instructions. If things occur on their own, it gives the impression that they are not fundamental to the functioning of the home and that matters could carry on without them. The master of the house must show that the *mitzvot* are the foundations. This is the matter of “relating to the situation in one’s home” and knowing that there is peace. This is the assurance that “you shall not sin.”

The entrance of the holy Shabbat is the time when Jewish sanctity shines brightest and strongest. That is the time to ensure that the operation of the home is being done in the best possible way, which shows that the proper form of a proud Jewish house is in place.

Power of *Mitzva* Over Discipline

(condensed from Ein Ayah, Shabbat 2:193)

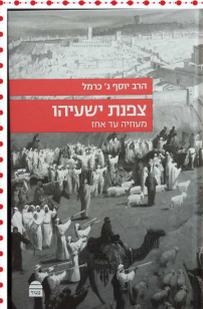
Gemara: Rabba bar Rav Huna said: Even though the Rabbis said, “There are three things that a man has to say ...,” it must be said in calmly. Rav Ashi said: I did not hear this in Rabba bar Rav Huna’s name, but I fulfilled it based on logic.

Ein Ayah: Every matter that needs decisions contains a “close action” and a “distant action.” The close action relates to the specific matter at hand – to act or to refrain from action. The distant action relates to the important results that will occur in the future as a result.

In any apparatus of authority, there are two approaches: pleasantness and aggressiveness. The authority can either act gently or with a strong arm. Regarding the specific matter before us, better results come from speaking and acting gently than from acting aggressively or indirectly. However, there is value in the authority asserting its power, as it strengthens the ability to intimidate rebellious people who in some future case would not be willing to follow decisions. Thus, a seemingly unnecessary display of authority has some added value.

However, regarding *mitzvot*, we know that their fulfillment, in and of themselves, purifies the mind and heart of the one who performs them. Therefore, in this regard, whether in terms of the close action or the distant one, the gentle approach is sufficient. It not only will cause the *mitzva* to be done in the present but also intrinsically improves prospects for the future. That is what Rabba meant by the master of the house giving the instructions calmly. It will be effective in the short term, and the *mitzva* will “drag along” another *mitzva*.

The above discussion is on the assumption that the critical matter is the long-term prospect of fulfillment. However, Rav Ashi said that without even considering the future, the approach to take in any case is, logically, the gentle approach.



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

Sub-Par Guest House Experience? – part II

(based on ruling 73030 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) runs a guesthouse, which hosted a group of students in a program organized by an informal education resource organization (=def). Def's representative #1 (later replaced by rep. #2), who had stayed at the guesthouse before, negotiated after receiving a brochure about pl's services. The group came for Shabbat with approximately 40 people for a price of 4,500 shekels for lodgings and 2,500 shekels for food, after giving a 3,500 shekel down payment. The group came closer to Shabbat than envisioned, without the group's leader, and complaints were raised about lack of room. Some students were supposed to sleep on mattresses, and bedding was available, but many slept without bedding or on the floor because they did not find them. The same is true of disposable utensils. Food was available for *seuda shlishit* as well, but the group did not take it. A representative of pl testified that on Friday, he showed a school staff member where all provisions were. Another major complaint was that pl did not have a *kashrut* certificate. (Some of the staff and of the girls did not eat pl's food for that reason or because they did not like it). On *Motzaei Shabbat*, def refused to pay the fee's balance (3,500 shekels) due to the things they claimed were missing (some will be mentioned in the ruling). Def is countersuing for 6,500 shekels – for return of the down payment and for the cost for an apartment that a staff member took for his family when he saw there was no room for them. While there were issues to be worked out between the school and def, they were not brought before *beit din*.

Ruling: [Last week we mentioned blame for def for not being a proper liaison between the school and pl and posited that *kashrut* certification for a religious proprietor should not be assumed.]

Beds – A guest house should have beds, not just mattresses, for all sleeping there, unless otherwise specified. However, pl claims to tell all that he has 25 beds and 60 mattresses, and it is agreed that he sent def's representative a brochure stating this. Representative #2's claim that pl said that very few would have to sleep on mattresses was not confirmed.

Bedding – There is agreement that pl told a school *madricha* that they were in a closet. It is not pl's fault that they did not look for them or ask pl before he left, hours later.

Number of rooms – Pl did not promise more than existed and representative #1 had seen the premises. The teacher did not have a room because the bus driver, who was not scheduled to stay, took one.

Seuda shlishit – It apparently existed. The fact that the girls, who were already annoyed, decided to eat food they brought and/or no one looked in the refrigerator is not pl's fault.

Serving and making beds – There is no evidence that pl committed to do so.

In summary, pl provides a low-level guest house package. There is no evidence he promised more. The fact that this did not live up to expectations and that there were misunderstandings that further took away from the school's enjoyment falls primarily on def. Def must pay the remaining 3,500 shekels, and their counterclaims are rejected.

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