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# HEMDAT YAMIM

דִּין יָמִים

## Parashat HaShavua

Chaye Sara, 22 Cheshvan 5778

### Belief Solely in the Merciful G-d

Harav Yosef Carmel

We have explained in the past that Hashem forged a covenant with Avraham, both under the “auspices” of His Attribute of Judgment (*din*) and his Attribute of Mercy (*rachamim*).

Let us try to understand the covenant connected to mercy. In that regard, Hashem’s Name of Mercy is used in commanding Avraham to “walk before Me and be *tamim*,” which will result in a covenant and Avraham flourishing greatly (*Bereishit* 17:1-2). What does it mean to walk before Hashem and be *tamim*? Rashi (*ad loc.*) first explains that it means to be complete in fulfilling all of the tests Hashem gave him. According to this, the covenant is contingent on fulfillment of all the ten tests Avraham underwent (see *Avot* 5:3).

Rashi also cites a *midrash* that the critical test in this regard was the circumcision (*mila*). This made him *tamim* (complete, unblemished), as with the foreskin, he was considered blemished. This is notable in our context, as in the explicit discussion of *mila*, Hashem’s Name of Judgment (*elokim*) was mentioned. Ibn Ezra says that the matter of *tamim* refers to the expectation that Avraham not ask why the *mila* was necessary.

The Ramban, in contrast, says that being *tamim* is a reference to a different *mitzva*, found explicitly much later in the Torah. Right after the commandment not to be involved in a variety of activities which we might categorize as witchcraft or divination (*Devarim* 18:10), the Torah says “You shall be *tamim* with Hashem, your G-d” (*ibid.* 13). The Ramban explains that the idea is that one’s belief in Hashem should be complete, as one should realize that He alone determines what will be and can change things that were planned to happen. Under such circumstances, the predictions of the various soothsayers are irrelevant. Rather, Hashem controls everything, and nothing happens based on constellations or the like.

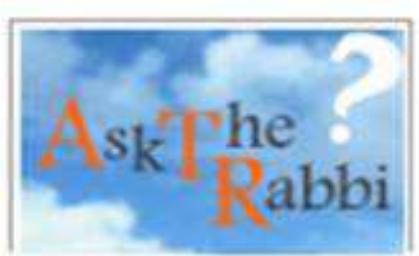
We will continue along the path set before us by the Ramban. According to this approach, the Torah in *Devarim* took that which specifically Avraham was told and turned it into an obligation for every Jew. Many nations used such “magical” practices, which were often connected to impurity and death, to “uncover” the hidden future. Our rejection of such practices is not just because they are, as a rule, ineffective hoaxes, or due to their connection to matters of impurity. Rather, it is mainly because they contradict our belief and trust in the Creator, who runs the world and wants us to not pursue various “forces” some feel can tell us about the future. It is for this reason that the Name of Hashem in this context is the main Name, which shows Hashem’s side of mercy and unlimited ability to act on our behalf.

When one believes without qualms, he receives providence that is beyond the rules of nature, predestination, or constellational connection. Anything can change for the good based on our belief. This belief makes a Jew complete (which is one of the meanings of *tamim*).

May we merit to follow Avraham Avinu and observe the commandments of the Torah handed down by Moshe.

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

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# Ask the Rabbi

by Rav Daniel Mann

## Answering *Birkat Kohanim* when One *Kohen* Finishes Last

**Question:** In my *shul*, one *kohen* regularly finishes *Birkat Kohanim* after the others. When should I answer *amen*?

**Answer:** The *gemara* (*Sota* 39b) says that the congregation should not answer *amen* before the *kohanim* have completed each *beracha*. Is this halacha referring to all the *kohanim* completing the *berachot* or is a majority enough?

Let us check parallel contexts. Rav Chisda (*Berachot* 47a) says that while the one cutting the loaf of bread should wait until those present answer *amen* to his *beracha*, he does not wait for a minority who unnecessarily stretch out *amen*. The *Shulchan Aruch* (*Orach Chayim* 124:9) rules that during *chazarat hashatz*, a *chazan* needs to wait only for the majority to answer *amen* and not for a minority that takes an unnecessarily long time. The *Mishna Berura* (ad loc. 38) says that an exception is in a context in which one is continuing with a *beracha* that each member of the congregation has a personal obligation to hear. In our case, although the congregation's involvement may have importance (*Sefer HaCharedim*, *Aseh* 4:18), the *kohen* who is has not finished is apparently not deprived of any obligation. (On a practical note, the introductory *beracha* and the first two *p'sukim* end with a vowel, "ahava," "v'yishmerecha," and "viyachneka," respectively, so that when it is stretched out, the last word is usually complete. The main problem is with the last *beracha*, where the "o" of *shalom* is stretched out before the "m" is pronounced.

Why must the congregation not answer *amen* to *Birkat Kohanim* too early? The *B'er Sheva* (*Sota* 39b) says that it is a simple application of a rule regarding *berachot*. The *gemara* (*Berachot* 47a) refers to an improper *amen* called *amen chatufa*, which some say is answering before the *beracha* is completed (see *Shulchan Aruch*, *OC* 124:8). This is probably worse than a *chazan* starting a new *beracha* before all have finished *amen* to the previous one, so perhaps a majority is not enough. However, it is hard to imagine that this would be a problem after most of the *kohanim* finished a *beracha*, as the *amen* is aimed on the *beracha* of the majority, who have finished.

The *Halachot Ketanot* (II:48, cited in *Mishna Berura* 55:4), regarding *Kaddish*, talks about answering different reciters who finish at different times. He says that if they finish within *toch kdei dibbur* (approximately, 1.5 seconds) of each other, one can choose to answer after the earlier or the later; if they are separated by more than that, one should answer both separately. The *Birchat Horai* (9:(9)) posits that the same is true for an unevenly finished *Birkat Kohanim*. He cites, without a source or explanation, Rav S.Z. Auerbach as preferring waiting until the later person is finished.

Should it make a difference that here there is a clear majority? We have seen that we follow the majority regarding the end of the recitation of *amen* for *Hamotzi* and in *chazarat hashatz*. However, that is apparently because of the assumption that the majority, not the minority, is doing things correctly, but if the majority is fast and the minority is at a nice pace, one should wait for the minority (*Be'ur Halacha* to 124:9). This is because of a specific issue with stretching out *amen*, which can distort the word (*Tosafot*, *Berachot* 47a; *Mishna Berura* 167:85), and it is unlikely this is a problem for the words of *Birkat Kohanim*. Therefore, on a basic level, it is better to wait for the last person.

The *kohanim* are expected to recite *Birkat Kohanim* in unison (see *Tosafot*, *Sota* 39b), although they are not angels, who can do things exactly. However, it is not ideal for one to stretch out words significantly longer than his friends. Therefore, the lack of conformity could arguably make the slower person's recitation inappropriate and make it preferable to follow the majority. However, such a determination, especially with the potential for hard feelings it could cause, is not something we can make a call on from a distance. It is also not appropriate for an individual congregant to "take a stand" in a publicly discernable manner.

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

# Ein Ayah

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

## Representative and External Sins

(condensed from Ein Ayah, Shabbat 5:64-65)

**Gemara:** Rav said: When you look deeply into David, you will not find a sin except for that of Uriya (arranging his death), as the *pasuk* says: "... only in the matter of Uriya the Chittite" (Melachim I, 15:5). Abayei Keshisha brought an apparent contradiction within Rav: didn't Rav say that David accepted *lashon hara* (negative talk about others)? This is a question.

**Ein Ayah:** There are two ways in which we evaluate a person based on those of his actions that we see. Usually, an action, even an individual one, will not be mentioned to teach about itself but to serve as an indication of the nature and value of the person who performed the action.

On the other hand, there are times when we will be made aware of an action that is not at all related to the character and moral fiber of the person who performs it but is based on external factors. In those cases, there are some reasons that caused the action to occur other than the person's spirit and level. This can apply both to positive and negative actions.

To make a determination that a person's action does not relate to his character requires a deep perspective of his character from several perspectives. Only then can we say that the action was an isolated, non-representative matter. This is what Rav was able to do in regard to David. He looked into all of David's life's activities and his characteristics, and he did not find another sin that was representative of a personality flaw, but only things that were external to him. Only the matter of Uriya was something that one needs to consider in viewing David's value as a person.

Someone whose spirit is healthy and strong may still be capable of perpetrating a sin that will chance upon him in an exceptional manner. However, that only occurs when the action is something that is inspired from itself, when a foreign characteristic or some difficult-to-define thought comes about that causes him to sin without realizing what was happening. However, it is not possible for a morally healthy person to be influenced by others on a matter of moral weakness. That is because he should be able to find the moral fortitude to follow his own line of actions even when someone else is trying to pull him in a different direction.

It must be, rather, that the sinner had a weakness in his spirit which made him soft and vulnerable to the influence of an outside force pulling him away from his usual good behavior. If he were strong, he would have had the inner power to repel and protest that which comes from the outside.

Thus, it could not be that David would accept *lashon hara* which someone else told him if he was not morally susceptible to allowing such a sin. [That is why it is an apparent contradiction regarding whether Rav posited that David's character was stained only in regard to the matter of Uriya or also regarding *lashon hara*.]



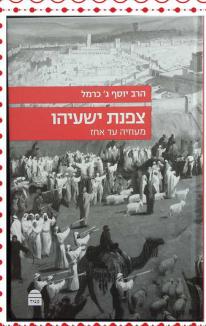
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# P'ninat Mishpat

## Who Hired the Plaintiff?

(based on ruling 76012 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=*p*) is an architectural company that prepared plans of a building project in a *yishuv* settlement. The defendant (=*def*), a partner in a contracting firm that built the project, paid for the work. After subsequent communication with *def*, it was decided that *p* continue to work, at a discounted rate, on plans for additional housing units in the same settlement. *Def* paid partially, and *p* is suing for the rest of the amount plus adjustments for late payment (7,337 shekels). *Def* says that while he encouraged the matter, since he was not assured of getting the second building contract (which he did not get), it was the *yishuv*, not him, who obligated itself to pay. *P* say definitively that *def* did not tell them that the *yishuv* was responsible. *Def* and the *yishuv*'s administrator at the time were not conclusive about what *p* was told, just that *p* knew that *def* was not assured of the contract.

**Ruling:** Due to the central role that *yishuvim* take in the legally unusual acquisition of land in Judea and Samaria, land set for development is considered as if it is owned by the *yishuv*. The *gemara* (Bava Metzia 118a) rules that if Reuven asks a worker to do work in Shimon's field, Reuven has to pay him and can then ask for compensation from Shimon. There is a *machloket* among *Rishonim* about a case in which the worker knew the field belonged to Shimon but was not told whether Reuven or Shimon would be paying him. *Tosafot* infers from the *gemara* that Reuven is obligated only when the field appears to be his own, and the *Tur* (Choshen Mishpat 336) concurs. The *Beit Yosef* (ad loc.) infers from *Rashi* that Reuven, who "hired" the worker, is obligated unless he specified that someone else would be paying. The *Shulchan Aruch* (CM 336:1) rules like *Tosafot*. The *S'ma* (ad loc. 4) points out that the requester is obligated to pay the worker if the worker did not know it belonged to someone else even if the former intended that the owner of the field would pay.

In our case, *p* knew that *def* was not the direct beneficiary of his work, so that ostensibly *def* should be exempt. However, due to several distinctions, we consider *def* the employer. 1. All agree that for the first part of the work, *def* was responsible, and when one hired someone for a certain period and then rehired without stipulation, we assume that the conditions are the same as they were the first time (see *Rama*, CM 333:8). 2. *P*'s price estimate was sent to *def* and included a reduction of the fee of the two jobs due to the volume of work provided, which does not make sense if there were different employers for the two parts. 3. *Def* continued to pay *p* and gave them receipts on their company forms. 4. Even if the *yishuv* promised to take some responsibility, no one bothered to inform *p* (the inconsistent testimony of the *yishuv*'s former director shows that he did not remember well and is thus not particularly reliable). 5. According to one *dayan*, this is different from a case of having the worker work in someone else's field because there was a good chance that *def* would end up being a major beneficiary.

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