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# HEMDAT YAMIM

## Parashat HaShavua

Bamidbar, 27 Iyar 5779

### Jewish Counting

Harav Shaul Yisraeli – based on Siach Shaul, p. 360-362

*Sefer Bamidbar* begins with the counting of *Bnei Yisrael*, with a hint of military purposes (“all those who go out to the army” – Bamidbar 1:3). Rashi (ad loc. 1) mentions the other countings that were carried out, which seem important, considering that Hashem commanded Moshe to involve great people – Aharon and the heads of the tribes. What is the big idea behind this, and why is the exact manner it was done important?

The *haftara* of Bamidbar contains an apparent internal contradiction: “The number of Bnei Yisrael will be like the sand of the sea” (Hoshea 2:1); “they will be unmeasurable and uncountable.” Can they be counted or not? It depends if they do that which Hashem wants or not (Yoma 22b).

It is prohibited to count people unless one does it by counting objects, such as coins or animals, that correspond to them. Why?

There is a dispute between Israel and the nations. Which has precedence: the material or the spiritual? quantity or quality? that which can be counted or that which cannot be counted? “For you are the smallest among all of the nations” (Devarim 7:7). “Whoever saves one life is like he saved an entire world” (*mishna*, Sanhedrin 4:5). There is even a practical *halacha*: if bandits threaten a group and there is a choice to save the group by giving up one person, we do not do so (*tosefta*, Terumot 7:20). There is no way to weigh the individual in contrast to a group; we cannot determine whose blood is redder (see Pesachim 25b). While the nations are interested in numbers, we are not. When the *navi* says that some 36 people were killed (Yehoshua 7:5), the *gemara* says it was talking about one *tzaddik*, who counted like 36.

When one counts with a number, he, by necessity, ignores the people counted. Sometimes an inmate is referred to by number; his name does not appear. The number, which connects between the previous and the next members of the series, is what interests observers. Sometimes you see the picture in an army with the face of the soldier distorted – he is one of a number of people who are to be “fed” to the weapons of destruction.

We remember the days of horror – when we saw the survivors of the atrocities from Europe, who arrived with numbers on their arms. Such horrible numbers, tattooed into their skin! The number killed the person; what happened afterward was just a result.

This is why there must be special care in counting Jews. We count “the number of names” (Bamidbar 1:2) – not just a number, but one that does not blur his name, identity, and uniqueness. It must be made clear that the count is external. It comes to connect the “full worlds” to reach a higher level of community, one that is fit for the dwelling of the Divine Presence. That is why we count with an object – to show that we are not counting the people but the qualitative merging. Perhaps this is why Israelites are called “*adam*” (Yevamot 61a), as we believe in the individual counting as if he were Adam, who existed on his own. It is different from the approach of others, who ignore the individual. We are before the giving of the Torah. When we are “His servants,” we lose the status of “servants to servants” (Kiddushin 22b). Each one is equivalent to Moshe Rabbeinu. We should not be discouraged when we see how few of us there are. When we accept the yoke of the Divine King, we receive true freedom.

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



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# Ask the Rabbi

by Rav Daniel Mann

## Kri'at HaTorah at Mincha

**Question:** When it is not possible to get a *minyan* together for a weekday *Shacharit*, may we *lain* at *Mincha*?

**Answer:** The matter hinges on whether the Rabbinic enactment of weekday *kri'at haTorah* was made specifically for *Shacharit* or that it is just the preferred time. The *mishna* (Megilla 21a) lists times for *kri'at haTorah*, starting with: "Monday, Thursday, and Shabbat *Mincha*." While some believe the order hints whether *Mincha* is or is not a possibility for weekdays (see Yehuda Ya'aleh, Orach Chayim 51; Beit She'arim, OC 50), it is more likely that we cannot make a reliable inference (Shut Maharshag II,92). In the Rambam (Tefilla 12:1), we find weekday *kri'at haTorah* attached to *Shacharit*. However, there are variant texts (Kesef Mishneh ad loc.), and perhaps he only means that *Shacharit* is the time *l'chatchila* (Shevet Halevi IV,15).

The rule (see Megilla 20b) is that *mitzvot* for a certain day can be done (at least *b'di'eved*) all day, unless there is a reason/source to limit them (e.g., *Kri'at Shema*; each of the daily *tefillot*). Regarding weekday *laining*, the Maharshag (ibid.) finds no reason to limit it. Some *Acharonim*, though, provide spiritual reasons. Yabia Omer (IV, OC 17) cites those who connect weekday *kri'at haTorah* to the idea that Monday and Thursday mornings are effective times for supplications (i.e., long *Tachanun*). In contrast, afternoons (except on Shabbat) are times of strict judgment. Goren David (OC 5) posits that public *kri'at haTorah* must resemble how Moshe instituted it – when all Jews were together. Nowadays, that is lacking, but it is important that all Jews do it at one time period. He leaves it up in the air as to whether different time periods on the correct day are considered a unified time.

There are 250 year-old sources on a similar case. The Dagul Mei'revava (to OC 135:2) rules that if a *shul* was unable to *lain* the *parasha* on Shabbat morning, they should do so that Shabbat afternoon. The Chida (Chaim Sha'al I, 71) disagrees, saying that one can read a whole *parasha* only on Shabbat morning; rather, one should read two *parshiyot* the next Shabbat. There are different indications as to whether the Zohar is in line with the Chida or it is not conclusive (see Yabia Omer ibid.). The Mishna Berura (135:5) and most Ashkenazi *poskim* accept the Noda B'Yehuda, whereas the Kaf Hachayim (OC 135:9) is among *Sephardi poskim* who rule like the Chida.

At first glance, regarding our case, the Dagul Mei'revava should say to *lain* at *Mincha*, and the Chida should say not to. However, there are distinctions in either direction (see Yabia Omer ibid.). On the one hand, Shabbat *Mincha* is a time for *kri'at haTorah* of some sort, which may not be true of weekday *Mincha*. On the other hand, Shabbat *Mincha* is the time for a different type of *laining* and the next Shabbat is a valid alternative, whereas all day Monday/Thursday is likely valid for *laining* and doing it on a later day is a problem because of the idea of three days without Torah (see Bava Kama 82a).

The explicit sources regarding our question begin around 200 years ago, with accounts that the Chatam Sofer, Rav Yehuda Assad, and others arranged *Mincha laining* for themselves when travelling (see Goren David and Yehuda Ya'aleh ibid.). Most *poskim*, including the Mishna Berura (135:1), assume that this is fundamentally correct (see also Shevet Halevi IV,15). Some argue that the case is not strong enough to introduce such a strange-seeming innovation (Beit Shearim, OC 50), and therefore it is better to refrain from it (this is also Rav Ovadia Yosef's conclusion (Yabia Omer ibid.).

What is clear from many of the sources (not all quoted here) is that in practice, a few subjective factors are important: whether it was at all possible to do it at *Shacharit* (see Yabia Omer ibid.); if it is on a regular basis (see Tzitz Eliezer XIII, 27); how people will react (Maharshag ibid.). It is unclear if it makes a difference how many people missed morning *laining* (see Yabia Omer ibid.). Therefore, each specific case behooves rabbinic guidance.

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# Ein Ayah

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

**Gemara:** [To answer a question about the timing of the giving of the Torah at Sinai, the gemara posits (according to one opinion) that] Moshe added, on his own, a day of separation from wives. This is as it says in a *baraita*: Moshe did three things of his own volition, and Hashem agreed with him.

## The Merger of Divine and Human Wisdom

(condensed from Ein Ayah, Shabbat 9:29)

**Ein Ayah:** Lofty divine sanctity must merge well with sanctity that is produced by man based on his holy nature and the light of wisdom that Hashem bestowed upon him. Based on the wonderful merger of the completeness of the Torah and the completeness of human wisdom, the light of Hashem appears in the world. This enables the Torah to survive and connect strongly with the spirit of the lives that the Torah leads and everything that is connected to those lives.

Sometimes it appears that there is a contradiction between the superior light of Hashem, a great, all-encompassing light, which is as broad as the heavens from which it comes, and between the inferior light that comes from the inner parts of man's intellect. In this case, the text of the Torah may seem to combat the product of human wisdom. However, this difficulty can actually be the source of the building of a holy and lofty edifice, in that the addition of the human wisdom can merge with the main (divine) decree and together complement each other.

If [Hashem commanded] the quicker spiritual preparation [for the giving of the Torah], as the simple, surface-level reading of the *p'sukim* indicates, the light of human intellect came and extended the content and increased the demand on man. Then, the light of Torah came out like the sun emerged in its great glory.

Although the *pasuk* (Shemot 19:10), "you shall sanctify yourselves today and tomorrow," seems to be difficult according to the opinion that connects the mundane to the sacred [a point developed in a previous piece], the idea that Moshe added on a day changes the whole picture. This is the source that the addition of the intellect is like a room that is filled with great treasures. It is based on the ability of man to know Hashem (see Yirmiyahu 9:23). Moshe was the great leader who both led their salvation and their closeness to Hashem (see Yeshayahu 63:11-12). "Moshe will we be happy with the present that was his lot."

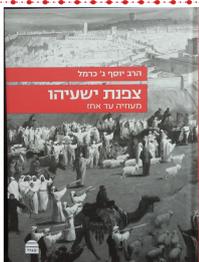
## Showing or Producing

(condensed from Ein Ayah, Shabbat 9:30)

**Ein Ayah:** There are two elements that demonstrate the value of the repeated manifestation of the human spirit, when it is revealed in practice. It is possible for a special action to create a lasting impact on the spirit. For example, if such an occurrence happens three times, then it is already not a matter of chance but becomes a matter of regularity. Then one's spirit develops an innate characteristic based on the path that he paved for himself. The other possibility is that the triple occurrence is an indication that that the specific human spirit always had in its root the characteristic that the actions indicated.

In Moshe's case, both elements are true. His lofty wisdom, which was at the root of his soul, was ready to be revealed as one that was in confluence with Hashem's wisdom. Moshe's lower, practical wisdom, which found expression in limited brilliance, needed to be set by repeated actions to which Hashem agreed.

In both elements there was a need for a repetition three times, which takes the matter out of the possibility of chance in two ways –by demonstrating the higher level that was already there, and by creating the lower level.



### 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

## Waiving Workers' Benefits

(based on appeal ruling 75118 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) served as a *rosh kollel* for the defendant (=def), an organization. For several years, def paid pl with a *kollel* stipend rather than a worker's salary with a wage stub and social benefits. Then, def started paying pl, based on pl's request, as a worker. Pl, who quit a year later, now demands to have his social benefits rights restored retroactively. Def argues that pl was indeed a *kollel* student, who received a higher than normal stipend because he also did some teaching. Def also argues that pl agreed to the conditions, which are totally standard for *roshei kollel* in Israel.

**Summary of Initial Ruling:** According to Israeli law, one cannot relinquish "cogent rights," including a worker's minimum social benefits. Standard court rulings posit that whether one's "pay" is to be considered a stipend or wages is not determined by agreement but by the nature of the relationship. These rulings should be understood as the basis for such questions. Relevant in this case is that pl provided a crucial service for the *kollel* and that def made demands of pl that are appropriate for a worker rather than a *kollel* fellow.

A worker can relinquish rights when they are based on common practice, but not when they are based on the law of the land. In truth, some *poskim* enable agreement to overcome the law in matters of employment, claiming that the law is based on "values that are foreign to the Torah," rather than improvement of society. Also, some argue that since agreement overcomes Torah law in monetary matters, it certainly overcomes rights given by the law of the land. However, *beit din* followed the approach that basic workers' rights are not just a matter that impacts individuals but the face of the workplace, making the law of the land viable. Based on the principles, *beit din* awarded pension contributions, severance pay, and recreation pay, and required def to retroactively provide wage stubs.

**Appeal:** If we follow the law of the land even when it is not common practice, *beit din* is no different than secular courts. In the realm of Torah institutions, the determinants of who is a worker do not apply, and general judicial precedent is thus irrelevant. Pl worked elsewhere and also did personal learning in his first years in the *kollel*, so that at least some of his pay should be a stipend.

**Appeal Ruling:** The *beit din* ruling is based on the Rashba and the Rama (Choshen Mishpat 369:11) that the laws of the land apply to laws done to improve society as a whole. According to this, matters of the public, including the protection of workers, who are the "weaker" members of society, exceed personal interests. When such laws begin, they are usually against common practice, but over time, as in this case, they become generally accepted by society. Therefore, in this case, the law is valid halachically. Use of the legal precedent just helps understand the law's intention. It is not true that *roshei kollel*, as a rule, are not paid as workers.

Had pl accepted the pay offer without benefits with the intention to later sue, he would have been acting in bad faith and his claims should be dismissed. But there was no claim that this occurred. It does not make sense to break pl's wages into a stipend part and a work part, as all was part of one set of responsibilities.

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