



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Shelach, 22 Sivan 5779

Are There Criteria for Rabbinical Judges in Israel? – part I

Harav Yosef Carmel

Discussion of the praise of *Eretz Yisrael* (also called *Eretz Hemdah*) is a worthwhile thing to do during the Shabbat of *Parashat Shelach* – to counteract the sin of the spies. Happiness about the rebuilding of the “Desired Land” atones for the crying on the night after the evil reports were given, which became set as the day for national mourning (Tisha B’Av).

One of the areas in which *Eretz Yisrael* is unique is the appointment of *batei din* staffed by *dayanim* with authentic *semicha* (which no longer exists). There was a central *beit din* of 71, which sat in the *Beit Hamikdash* complex, *batei din* of 23, which could handle cases of corporal punishment, and there were *batei din* of three in all cities.

Let us discuss the characteristics that are required for each *dayan*, according to the guidelines set for us by our mentor, Harav Shaul Yisraeli z.t.l. and how this impacts on the choice of rabbinic fellows for Eretz Hemdah’s program to produce rabbinical judges. The Rambam (Sanhedrin 2:1) rules: We appoint to the *Sanhedrin* (high rabbinical court), whether the grand one or the smaller one, only men who are knowledgeable and wise, who excel in the wisdom of the Torah, and have great wisdom.”

It is clear that the first, necessary condition to receive this ordination is to have deep and broad knowledge of Torah, specifically in *Shas* and *poskim*. That is the reason that Eretz Hemdah’s curriculum covers all of *Seder Nezikin* and the *Choshen Mishpat* section of *Shulchan Aruch* and *Seder Nashim* and the *Even Ha’ezer* section of *Shulchan Aruch*.

However, this is not enough. Notice that the Rambam (ibid.) mentions: knowledgeable, wise, excellent in the wisdom of the Torah, and who have great wisdom. Aren’t these redundant?

The Torah, in discussing the laws of *tzara’at* afflictions, mentions the *kohen’s* coming to see it twice (see Vayikra 13:3). What is the difference between the two inspections? The Meshech Chochma suggests that the first inspection determines whether there are physical grounds for the affliction to be defiling. The second one is whether the circumstances are proper for him to be rendered impure, as we do not do this to a groom during *Sheva Berachot* or people during the Jewish holidays. This is based on “Its ways are the ways of pleasantness.” We learn from this how such considerations impact a ruling. This turns the Torah into a “Torah of life,” which requires the *dayan* to have a broad perspective.

The Rambam continues in presenting qualities of a *dayan*. He says that they should “know a little bit about non-Torah areas of wisdom, such as medicine, mathematics, and astronomy.” He believes that scientific and general knowledge are crucial characteristics of the complete *dayan*.

The Rambam also says that knowledge of foreign languages is crucial. Nowadays, one who is fluent in English can understand most people who will come his way even if they do not speak Hebrew. Apparently, at the time of the Rambam, there was no universal language, and therefore he was more demanding (most languages). Therefore, a high percentage of Eretz Hemdah-Gazit’s *dayanim* have broad knowledge, fluency in a foreign language, and even an academic degree. Let us pray that Eretz Yisrael/Eretz Hemdah will be able to unite heaven and earth and thereby sanctify Hashem’s Name through a knowledge that “its ways are ways of peace.

Hemdat Yamim is dedicated to the memory of:

Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah

Rav Shlomo Merzel z"l Iyar 10, 5771	Rav Reuven Aberman z"l Tishrei 9, 5776	Mr. Shmuel Shemesh z"l Sivan 17, 5774	Rav Asher Wasserteil z"l, Kislev 9, 5769	Mrs. Sara Wengrowsky bat R' Moshe Zev a"h, 10 Tamuz, 5774	
Hemdat Yamim is endowed by Les & Ethel Sutker of Chicago, Illinois. in loving memory of Max and Mary Sutker & Louis and Lillian Klein , z"l	R' Yaakov ben Abraham & Aisha and Chana bat Yaish & Simcha Sebbag , z"l	Rav Yisrael Rozen z"l Cheshvan 13, 5778	R' Benzion Grossman z"l, Tamuz 23, 5777	R' Meir ben Yechezkel Shraga Brachfeld z"l	R' Eliyahu Carmel z"l Rav Carmel's father Iyar 8, 5776

Rav **Moshe Zvi (Milton) Polin** z"l Tammuz 19, 5778

Rabbi **Yosef Mordechai Simcha ben Bina Stern** z"l Adar I 21, 5774

R' **Abraham Klein** z"l 18 Iyar 5779

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.
amutah number 580120780

American Friends
of Eretz Hemdah Institutions
c/o Olympian, 8 South Michigan Ave.,
Ste. 605, Chicago, IL 60603, USA
Our Taxpayer ID #: 36-4265359

www.erezhemdah.org info@erezhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code

Ask the Rabbi

by Rav Daniel Mann

Answering Amen to *Hamakom Yenachem*

Question: Should a mourner (or others present) answer *Amen* to the words of consolation, "*Hamakom yenachem etchem b'toch she'ar aveili Tzion v'Yerushalayim*"?

Answer: The nature of *amen* changes with the context of the statement to which one is responding. Most classic *berachot* praise Hashem for providing one of many things for man (e.g., food, seeing something noteworthy, providing something historical). If one hears someone praising Hashem, he is required to express his agreement (Berachot 51b; Shulchan Aruch, Orach Chayim 215:2).

The Magen Avraham (215:3; also, Mishna Berura 215:9) refers to a *midrash* that if one hears someone blessing a fellow Jew, he is required to answer *amen*, even if Hashem's Name is not invoked. This, as opposed to the first element, is a *mitzva* between man and fellow man – to add one's voice in requesting Him to do good for someone. Several *Acharonim* assume that this is a proper thing rather than an absolute obligation (see Yechaveh Da'at III:9 citing the Netziv; Aruch Hashulchan, OC 215:1).

If one blesses you, it makes sense to answer *Amen*, as your voice in request for yourself has value, as we know from *davening*. It may be even more appropriate here because it is possible that the good wishes extend beyond the mourner. Some have the practice to say *Hamakom* ... in the plural even if there is one mourner present, and the most common explanation is that it includes the deceased (see Nitei Gavriel, Aveilut I:1). Indeed, the Rambam (Avel 14:7) wrote that *nichum aveilim* helps the mourners and the deceased. The connection of the mourner to those who mourn for Jerusalem, which different authorities understood with minor variations, may mean that we are also blessing all of the nation - that we should soon see its rebuilding, which makes answering *Amen* appropriate.

On the other hand, it is possible that *Hamakom* is not a good wish but a philosophical message to the mourner, along the following lines. It is hard to come to terms with the loss of a close relative, but just as the Jewish People has learned to deal with the destruction of the Temple and believe in its rebuilding, so too the mourner should accept the Divine decree, believe that it was for the best, and look forward to the deceased's return with *techiyat hameitim*. Most authorities, though, seem to understand *Hamakom* as a prayer/blessing. This is certainly the case for the Sephardic saying of "you shall be comforted from the Heaven" and for the increasingly popular addition of "and you shall not continue to have pain anymore."

There is also logic to say *Amen* to fulfill the concept that some *Acharonim* discuss (see Divrei Sofrim 376:1) of accepting the consolations. On the other hand, there can be ways other than saying the word *Amen* to do that. I saw a citation of Rav Moshe Feinstein preferring not to say *Amen* because it is as if the mourner is waiting to be a mourner again. It is not clear what in the words implies that and, if so, why it is okay for the consoler to say so.

My experience at *shiva* homes over the decades is that mourners did not usually say *Amen* (as I have seen in the name of Rav Chaim Kaniefsky). However, several contemporary works encourage it, based on the opinion of Rav Shlomo Zalman Auerbach (see Nitei Gavriel *ibid.* 2; P'nei Baruch 11:5; Teshuvot V'hanhagot V:309.19) and based on halachic logic and this is not a rare occurrence. We have no problem with this developing into the *minhag*, but in deference to what has apparently been the more prevalent practice, we would not make a ruling that an *avel* should say it. (Actually, none of the sources we saw, in either direction, use terms of imperative.)

It is less common for other consolers to answer *Amen*. There is two-pronged logic for other consolers to not answer *Amen*: 1) Although most use the same standard statement, it is a private matter between the consoler and the mourner, which not everyone should be expected to listen to (some people are shy); 2) The consoler will be saying the same thing soon, and therefore it is not crucial to do it now.

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

▶ SEND NOW!



WE ARE HAPPY TO PRESENT OUR FIFTH VOLUME OF "LIVING THE HALACHIC PROCESS".

The book offers a compilation of questions and answers from our "Ask the Rabbi" project.

Sources for the answers can be downloaded from our website.

Special price for Hemdat Yamim readers: \$20

Ein Ayah

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

Commands and Nature

(condensed from Ein Ayah, Shabbat 9:42)

Gemara: [We continue with initiatives of Moshe Rabbeinu that Hashem agreed to.] Moshe separated himself from his wife. From where did he derive this? He followed the reasoning of a *kal vachomer*. If about Israel, who Hashem spoke to for only a short time and the time was set, still the Torah said, "They shall not get close to a woman" (Shemot 19:15), I, to whom Hashem speaks on an ongoing basis and the time for this is not set, it is all the more clear [that I should separate myself from women]. How do we know that Hashem accepted this? [It says in the Torah, "Go tell them: Return to your tents" (Devarim 5:26). And then it says: "And you (Moshe), stand here with Me" (ibid. 27). Some say that it is derived from [that which Hashem said about Moshe]: "Mouth to mouth I speak to him" (Bamidbar 12:8).

Ein Ayah: The laws of morality, in all of its aspects, whether regarding characteristics or in the lofty holy elements of moral content, find expression in two forms, wherein one is more internal than the other. These are: the form of commandments to act in a certain way and a great natural status that one possesses.

The obligation to do something is great in its loftiness; it appears from a place that is much higher than the level of man. The natural greatness of man is great in its depth and the impact it has, as it connects to a person's essence.

In regard to every revelation, whether it comes to the person by means of wisdom and recognition or whether it appears to him through prophecy, there is opportunity for the two types of acceptance. When a person who is ready for it receives light, it is apt to change his characteristics from those of obligation to those of nature.

The general, lofty revelation that set the foundation of Moshe Rabbeinu's personality and enabled his prophecy to be above that of anyone who preceded him or would follow him, had to have had elements of both types of characteristics. It had both the matter of obligation and that of the nature of the greatest of all spiritual people of all choice people.

Thus, on one hand, Hashem commanded Moshe: "And you, stand here with Me" (Devarim 5:27), as opposed to that which the others were told: "Return to your tents." The natural restriction on Moshe was a result of the fact that Moshe was on the level that Hashem spoke to him "mouth to mouth." This cannot exist unless Moshe was on such a high level that he was beyond being drawn to physical relationships, and that is why [he felt that he could not have such a relationship and Hashem agreed]. That separation was a result of the prophecy. This high level applied also to any personal study of such a uniquely elevated human being, to whose ideas Hashem agreed, both by means of a commandment and as an expression of his natural greatness.



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.

[Buy Now](#)

P'ninat Mishpat

Firing a Contractor – part III

(based on ruling 75104.1 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: Plaintiff 2 (=p/2) was the contractor for major renovations of the defendant's (=def) home; plaintiff 1 (=p/1) was the supervisor. P/2 was well behind schedule and was fired by def. [Over the last two installments, we presented that def had the right to fire p/2 and determined how to appraise the amount p/2 should receive for the work already done. We continue with other elements.] Def claims around 25,000 shekels for various damages done by p/2 and his subcontractors and workers. P/2 claims that he should not be responsible for the damage done by others.

Ruling: Regarding the 7200 shekel claim for ruining def's oven, p/2 says that the aluminum worker did the damage. Ostensibly, the worker is responsible for direct damage he caused. However, the aluminum worker did not sign an arbitration agreement and did not present his version of the story. According to standard Halacha, p/2 should not be obligated to pay for that damage. On the other hand, Israeli law (Ordinances of Damages, par. 13) obligates the employer (in this case, p/2) of one who damages under either of the following circumstances: 1. The employer approved the action; 2. The worker did the damage while doing work on behalf of his employer unless the employer was forced to use this worker. This applies even if the worker was not performing his work properly.

We do not need to discuss whether this law is accepted in its entirety by Halacha, especially in regard to p/2, who is not a citizen of the State of Israel. However, *beit din* concludes that the accepted practice in the field of contractors is that the contractor accepts responsibility for the damages of the workers that he has a right to choose without the homeowner's approval. It is not fair to make the homeowner deal with workers that he did not choose. In this case, p/2 admits that the damage was done by one of his workers, and so he must pay.

Regarding a claim of 300 shekels for damage to two fans, p/2 admits to damage to one of them. Since he admitted a portion of the claim, and according to Halacha, he should have had to make a Torah-level oath on the rest, we obligate p/2 250 shekels.

Regarding def's claim of 7,000 shekels for ruining her air conditioner, p/2 does not admit that he or his workers are responsible for it. Def presented an expert's report that the damage was caused by particles of debris in the air, which would logically have come from p/2's work when the air conditioner was not covered. The expert was not interrogated in *beit din*. Also, 7,000 shekels is the price of a new air conditioner, while this one was used. Factoring in everything, we obligate p/2 2,300 shekels.

Regarding the claim that p/2's workers stole 4,000 shekels worth of items that were placed in a large bag during the work, p/2 denies that there was any theft and says that what the workers took without permission was returned. Def's pricing of the objects were estimations. *Beit din* obligated p/2 a sum of 500 shekels. There were certain claims that were unproven and weak, and there were no obligations levied on them.

.....
We daven for a complete and speedy *refuah* for:

Yehuda ben Chaya Esther / Eliezer Yosef ben Chana Liba
Yair Menachem ben Yehudit Chana / David Chaim ben Rassa
Netanel Ilan ben Sheina Tzipora / Netanel ben Sarah Zehava
Nir Rephael ben Rachel Bracha / Ro'i Moshe Elchanan ben Gina Devra
Meira bat Esther / Rivka Reena bat Gruna Natna
Bracha bat Miriam Rachel / Naomi bat Esther
Lillian bat Fortune / Yafa bat Rachel Yente
Refael Yitzchak ben Chana

Together with all *cholei* Yisrael
.....

It is possible to contact writers via info@eretzhemdah.org

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.