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Founder and President

# HEMDAT YAMIM

## Parashat HaShavua

Vayeitzei, 9 Kislev 5776

### “For Me, G-d” – in *Eretz Yisrael*

Harav Shaul Yisraeli – based on Siach Shaul, p. 99 (address from 1943)

[Yaakov made a conditional oath to Hashem, in which he lists his requests and his promises. There is some question about where one ends and the other begins. At the heart of the transition is the *pasuk*] “I shall return in peace to my father’s home, and Hashem will be for me, G-d” (Bereishit 28:21). The Ramban connects this *pasuk* to the idea (Ketubot 110b) that whoever lives outside Israel is like one who does not have a G-d.

There were those, who even though they lived a religious lifestyle, did not find their way to *Eretz Yisrael*. There were those who saw as the goal of Judaism just the idea of spreading the idea of belief in Hashem throughout the world. They did not see a relevance of there being a specific territory to which they needed to be connected. Exile seemed to them to be a natural situation, to the extent that they loved the lands of their exile as their homeland and even saw it as an obligation to give their life for the preservation of these homelands. This duality, which is having a backlash effect, especially in the religious community, in our days as well, weakens our resolve.

This is not the approach of our Rabbis. The essential Judaism and its *mitzvot* are specifically made for *Eretz Yisrael*. The vision of a divine nation is incomplete and blemished when we are outside the Land. We lack a real base – a land that is ours – when we are without our own unique homeland and are dependents “at the table of the nations.” “The wisdom of the underprivileged is disgraced” (see Kohelet 9:16). Our feeble attempts to lecture the world on matters of ethics are valueless as long as our words are those of a spineless peddler. *Eretz Yisrael* exists so that we can reveal the idea of godliness in its fullest sense. Through it we can coronate Hashem with everything that we do. We can create a Jewish street, a Jewish village, and a Jewish city.

However, once we get to *Eretz Yisrael*, that is when we have the obligation to make good on our obligation, or should we call it, our oath. If we do not actualize the type of life of sanctification of Hashem to which we have alluded, then we have simply left the Torah as letters that are floating in air or as a document whose debt is not paid.

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## Ask the Rabbi

by Rav Daniel Mann

### Saying *Shemoneh Esrei* Audibly

**Question:** I daven with someone who daven *Shemoneh Esrei* loudly enough to disturb my davening significantly. Can/should I say anything?

**Answer:** There are two matters to discuss: whether the *davener* may do what he is doing; what you should do about it. The former is straightforward; the latter is difficult.

The *gemara* (Berachot 31a) learns from Chana (Shmuel I:1:13) that *tefilla* (referring at least mainly to *Shemoneh Esrei*) should not just be contemplated but that words should be formed by the movement of the lips, but in a manner that is not audible. The *gemara* (Berachot 24b) even refers to one who recites *tefilla* aloud as one who does not believe Hashem will hear him otherwise and to one who raises his voice as an idol worshipper. There is a *machloket*, from Talmudic times and on, whether it is proper to pronounce the words loudly enough to hear them himself (see Beit Yosef, Orach Chayim 101). While Kabbalistic sources oppose being able to hear, standard halachic ones recommend being able to hear (Shulchan Aruch, OC 101:2, but see Be'ur Halacha ad loc.).

The *gemara* (ibid.) assumes that the main problem of saying *tefilla* audibly is contextual and that he may do so if he needs to for his *kavana* (concentration). The Taz (OC 101:1) posits that it is justified even to improve his otherwise reasonable *kavana* (the Be'ur Halacha, concerned for the Kabbalistic opinions that audibility disqualifies *tefilla*, objects). However, the *gemara* says that even one who needs to recite aloud for his *kavana* may not do so in a communal setting because it disturbs others. The Mishna Berura (101:6) posits that this problem exists even if he disturbs only his closest neighbor(s) in *shul*. This indeed seems obvious. If the proper thing is to be quiet and this is waived to help *kavana*, why would we bend the rule if it hurts another while helping him?

It is difficult to apply these rules like an exact science. Most people cannot make themselves hear and still be certain that those next to them do not hear at all. It is also difficult to know when a quiet undertone will disturb others. And what if the words are not audible, but a low hum still disturbs someone? If it is his neighbor's over-sensitivity, then it is arguably his problem, and the neighbor should deal with it or find a different place to sit.

These are issues that are hard to quantify and their practical application are often the type of things that separate average people from those with sterling *middot*. One optimally should make sure that he is not disturbing others. On the other hand, the person being disturbed should try to be understanding and give the *davener* leeway in borderline cases. I often recall the general concept that I heard from my Rosh Yeshiva decades ago. There is, for example, a *pasuk* (Shemot 22:24) that it is forbidden to harass a borrower who is having difficulty paying back. There are also severe words for a borrower who does not pay back (Tehillim 37:21). The problem is when the borrower is all too familiar with the *pasuk* for the lender to know, and the lender is all too familiar with the borrower's *pasuk*.

Even if one may ask the audible *davener* to conform to the halacha, it is not always clear if and how he should do this practically. The Chazon Ish (YD 2:21) made famous the opinion that in our days we do not know how to give rebuke. I would add that our generation is particularly unsuccessful (not that it was ever easy) in accepting not only rebuke but corrections. So you must think (and/or discuss with someone who knows him better than you) how your co-worshipper will react. This may depend on how he is told – directly, with a carefully worded (anonymous?) letter, having the rabbi speak to him directly or perhaps discuss the *halachot* with the community. Depending on the prospects, it might be better to put up with the situation or move your seat discreetly. [For readers who practice (possibly) audible davening, please discuss the matter with someone whom you respect and avoid disturbing others and having someone approach you.]



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# Ein Ayah

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

## A Time for Humor

(condensed from Ein Ayah, Shabbat 2:102-3)

**Gemara:** [Regarding the apparent contradiction over whether it is proper for there to be lightness or only seriousness surrounding Torah learning,] there is no question – this is for the teacher (proper), this is for the student (improper). Another possibility is that both refer to the teacher – one is before beginning to learn (proper), one is after beginning. This was practiced by Rabba who would say something humorous before starting and then would sit with trepidation and begin the lesson.

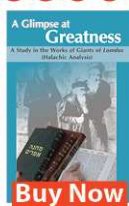
**Ein Ayah:** [We have already seen that the enjoyment of Torah study is to be experienced only after one has made it through the early stages, which require much hard work.] It is thus understood that the teacher, who has already reached the point of being able to readily appreciate the experience, can be involved in its enjoyment. Although this includes opening himself to thoughts that come from and can pull one in various directions, he is already at the point of clarity of mind that he can handle it. To the contrary, the broadness is something that will enable him to give over the Torah in a more impressive and impactful manner.

According to the second version of the *gemara*, even the teacher must deal with happiness and humor only before he starts teaching. Even though this can be helpful and he should be stable in his mastery, if he is truly great, he will always be striving for an even higher and deeper level. Even on topics in which he has reached the mastery to teach others, he still wants to reach new levels of understanding, and this requires that he maintain the seriousness that allows him to focus in a confined manner. Despite his already acquired love for Torah knowledge in and of its own right, he still wants to act like a student at the time of his learning.

The reason to choose happiness or seriousness depends on the way one views the knowledge that he has already acquired. On the one hand, by the time he has come to teach, the matters should have become part of his nature, and this brings joy. On the other hand, the feeling that acquiring wisdom is an inexhaustible process causes him to feel seriousness. This seriousness does not erase the spark of joy that stems from satisfaction at what has been attained. To the contrary, the happiness when one begins to teach, celebrating that which he has reached, gives him incentive to continue to attain more and more.

Not only does the teacher have what to enjoy, but it is also educational to share this with his students, so they can see that which they are able to attain themselves. That glimpse helps the students deal with the process of great toil they have to pass through. Therefore, the teacher can include them in the humorous matter. After using that to prepare themselves for the yoke of disciplined learning with the right spirit, the teacher sits in trepidation, as one who knows what is missing. It is even clearer that the students need to sit in trepidation, to go about the strenuous work they need until they reach the treasure of knowledge. This is the trepidation of anticipation of one who goes towards a very beloved and awaited goal.

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# P'ninat Mishpat

## Rabbinic Functions Without Being Appointed

(based on Shut Chatam Sofer, Choshen Mishpat 163)

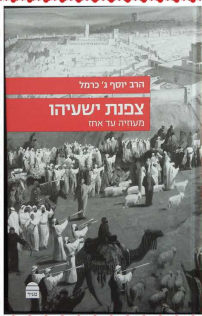
**Case:** What rabbinical functions may one who has *semicha* but is not the appointed rabbi of his community carry out?

**Ruling:** In regard to adjudicating between two litigants and ruling on questions of ritual matters, the matter certainly has nothing to do with appointments. The only requirement is that a recognized rabbi bestowed upon him permission to deal with those matters and that he is fit to do so. This is based on Piskei Maharay (126-128), which says that even if there is a great scholar who was chosen to be the rabbi of the city, this does not prevent someone else from making rulings. The rationale is “let the Torah be great and adorned” and “the jealousy among scholars increases wisdom.” In the case where the second rabbi is just a temporary visitor, the former reason does not apply, and the Maharik (169) says that he cannot rule on ritual matters. However, he can adjudicate monetary matters, as maybe he is more acceptable in the eyes of the litigants, and the Maharik says that he can also be a *mesader kiddushin*, as the *chatan* has the right to choose his “agent” for the *berachot* (see also Rama, Yoreh Deah 245). The matter is only if the rabbi is qualified to carry out the tasks. It is even more obviously permitted for a *talmid chacham* who is in a place where there is no official rabbi.

The importance of appointment as the community's rabbi is regarding communal matters, especially monetary ones that affect the constituency, such as taxes, charity funds, *sifrei Torah*, *shuls*, and public bath houses. Fundamentally, the city's *dayanim* should have been unfit to rule on these matters because of their interests in them, but it has legitimately become customary to allow it (see Shulchan Aruch, Choshen Mishpat 7:12). It is best if the rabbi is excluded from all responsibilities in these regards and is paid from the joint communal fund, in which case he is not impacted by these decisions. Another *talmid chacham* in the community, who has not been chosen and is likely to have financial connections to people, is unfit to have a hand in the decision-making process without special permission.

What is more problematic is the lesser titles of “*Moreinu*” and “*Chaver*.” They do not have a source in the *gemara*; it is just an Ashkenazi *minhag* from the time of the Maharil and the Mahari Weil. My *rebbe* told me that there was a *cherem* to not allow these titles to be used without the local rabbi's permission. The Mahari Weil even said that only a community rabbi with 10 full-time students may bestow those titles. Apparently, there was a concern that unqualified people will get involved in *gittin* and *kiddushin*.

However, our problems apparently help us. There used to be great care in giving out these titles only to very learned people. It has now become popular to give these titles to unlearned wealthy people who help support *talmidei chachamim* and their families. There are indeed sources that such people deserve honor. In any case, these titles no longer cause people to rely on their holders' scholarship. Therefore any community rabbi or *beit din* can grant them, just that a total farce should not be made of the matter. I will not go into more detail on such issues, which do not have Talmudic sources.



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