



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Shelach, 12 Sivan 5776

Fear of Holiness

Harav Shaul Yisraeli – based on Siach Shaul, p. 388-390 (address from 1988)

The spies were sent to find out, among other things, whether "... there is a tree or not" (Bamidbar 13:20). Rashi explains: "Do they have a proper person, who can shield them with his merit?"

Although the spies were seemingly asked to determine physical things, Rashi teaches us something different, which hints at the spies' mistake. They did not realize that there are two sides to existence. Just as there is a need for a "kingdom of priests," so too there is a need and a possibility of a "holy nation." The nation has the ability to, at once, be involved in ploughing and sowing and not allow this to take them away from holy emotions. If they can preserve the connection between these two sides, they can deal with material matters and not become material themselves.

The Israelites were afraid that the inhabitants of Canaan were too strong for them (ibid. 13:31), [including in their spiritual impact on them], but this is a mistake. While it is true that we, as a nation, can fall very low and learn from corrupt nations instead of the more proper ones (see Sanhedrin 39b), if the scholars of our kingdom of priests do their job, we can survive.

The spies' mindset finds expression in a social phenomenon that we are witnessing these days. We are witness to a throwing off of values, not only of the special level we reached at Sinai or of some present-day religious law, but, in general, of everything from the past that serves as a foundation of our national identity. The struggle is on the desire of many to create a "new nation," one which has no interest in preserving the traditions of previous generations and the treasures of our cultural past. They want to create new ones by assimilating into the nations of general civilization. They want a nation that is concerned only with the present.

Talk of democracy is just a front for a desire to erase our essence. "Let all do exactly what they desire." If it was only a matter of respecting each person's divine image, they would react more positively to those who want to lead spiritual lives. In truth, it is what Bnei Yisrael cried about in the desert – "about families." They are appalled and embarrassed that some of their children have returned to Jewish observance. While we are surprised by this reaction, it has roots in the spies' approach millennia ago. The reigniting of anti-religious activity is a direct result of the *teshuva* movement, which shakes those who have discarded the ways of their fathers. The movement shows that there is something in the Jewish soul that strives for more than the vanities of the physical world. Such Jews strive for light and internal renewal, and do not find it in the different games they see in society, but in sanctity. This is upsetting and challenging to those who have rejected sanctity.

We can understand the situation with security and serenity. We will be tolerant, not out of resignation, but with confidence that at the end, the light will come. We do not need to fight; Hashem will fight for us. We are just witnessing the last signs of life in a mortally wounded segment that rejects sanctity and is acting as one who sees his house collapsing.

"They saw all of them crying and Rabbi Akiva [who understood the ultimate silver lining] was laughing" (see Makkot 24b).

Refuah Sheleymah to Orit bat Miriam

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Ask the Rabbi

by Rav Daniel Mann

Imperfectly Said *Tefillat Haderech*

Question: When I go on bus tours, the tour guide often has someone say *Tefillat Haderech*, to which everyone answers "Amen," before we leave the city limits of Yerushalayim. I thought it is supposed to be recited after you have left the city. In such a case, should I say "Amen"? Should I say it myself at the right time? Also, on a one day trip, if the person leaves out the phrase "v'tachzirenu l'vaytenu l'shalom," should I repeat the *tefilla* with that phrase?

Answer: [We will not answer the question you did not ask: nowadays, when traveling in relatively built up areas, whether *Tefillat Haderech* is called for when traveling from point X to Y.]


The *gemara* (Berachot 30a) asks when one begins to recite *Tefillat Haderech* and until when, and answers "from the time he seizes the road" (there are different texts and it is hard to translate literally) and up to a *parsa* (approximately 4 km.), respectively. It is unclear from the *Rishonim* when one is considered on the road. The Magen Avraham (110:14) says it is after he leaves the city, and in fact comes to a place where there has been 70 *amot* without houses outside the city. (The determination on each road out of a city and whether rules for the city limits are the same as for *eiruv techumin* are beyond our present scope – see Machatzit Hashekel 110:14).

The Taz (110:7) says that there is no source for waiting until after leaving the city, as the *gemara* about seizing the road means just that one must be certain he is embarking on the journey. The Tur and Shulchan Aruch (Orach Chayim 110:6) cite the practice of the Maharam MiRutenberg to connect *Tefillat Haderech* to *Birkot Hashachar* (since *Tefillat Haderech* starts as an open *beracha*, which is fitting to follow a previous *beracha*). The Taz understands that this is done during *Shacharit* and thus before leaving the city. Others, including the Eliya Rabba (110:14), counter that the Maharam did this when he *davened* on the way. The Shulchan Aruch (OC 230:1) connects *Tefillat Haderech* to the *beracha* said for leaving the city one was visiting. The Pri Megadim (OC, Mishbetzot Zahav 110:7) sees that as a sign that he holds that it is recited right after leaving the city, even if there are still houses.

You are likely right that sometimes people recited *Tefillat Haderech* too early. However, *b'di'eved* (after the fact), this is not so bad. First, almost all *Acharonim* agree that *b'di'eved* one fulfills the obligation when reciting once he was preparing to leave (Eliya Rabba *ibid.*, Mishna Berura 110:29). Therefore, the *beracha* is not *l'vatola* and you may and should answer *Amen* (see Shulchan Aruch, OC 215:2). Also, in our times, it may make more sense to say *Tefillat Haderech* earlier. In the past, the main concerns were bandits and animals, who were more prevalent outside the city, whereas nowadays our primary concern, car accidents, can happen anywhere (see an application in Shevet Halevi X:21). On the other hand, it is hard to change halachic rules based on such a factor.

One could argue that it would be best for you to answer *Amen* but have in mind not to be *yotzei*, and say it later yourself at the better time. However, besides possible awkwardness, you can lose out. One advantage of saying it relatively early is that Rashi (Berachot *ibid.*) understands that you must say *Tefillat Haderech* within the first *parsa* after leaving (the Rama OC 110:7 cites as *l'chatchila*), and, if the Taz is right or if you do not act quickly, you can miss. So simply being *yotzei* with everyone else is proper.

The matter of not saying the addition for the return trip is not an issue. The phrase (different *siddurim* have variations), is mentioned for all trips by certain *Rishonim* (Rosh, Berachot 4:18) and not by others (see Kaf Hachayim, OC 110:13). It is only some *Acharonim* and contemporary practice who set it aside for cases where you are returning the same day. Therefore, there is no good reason to be concerned that the validity of the *beracha* is affected by omitting it (Ishei Yisrael 50:(3)).



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Have a question? -email us at info@erezhemdah.org

The Marketplace – Where Human Weakness Is Found

(condensed from Ein Ayah, Shabbat 2:206)

Gemara: When a person goes out to the marketplace, he should view himself as one who was given over to a judge.

Ein Ayah: Life is presently flawed, and the fact that there are flaws shows that things need to be fixed and that stumbling blocks are nearby. All of this is because of man's sins and his proximity to seriously harming his path in life. This makes it necessary for him to suffer afflictions, especially in connection with matters that are part of the corruptive elements, which resemble a battlefield.

Hashem demands of us a style of life that is based on honesty and divine light. The marketplace is the place where the war of life is waged in its full intensity, with its deceit, coarseness, and haste. When one is forced to go out to the marketplace, he is forced to become a soldier in that war, where man's soul is dragged down to the dirt and trampled on by bad character traits and all that comes along with them.

The fact that one is forced to go out to the marketplace is testimony to his connection to the joint sins that are natural for mankind and cause people's problematic status. This is why one who goes to the marketplace should view himself as one who was given over to the judge. On the other hand, once he knows that the marketplace contains traces of man's sinfulness, that realization itself is a sign that he has not reached the lowest levels. He should just be careful not to be trapped by the dangers as he walks before Hashem in the land of the living, which refers to the marketplaces (see Yoma 71a).

Signs of Being Caught Up in Sin

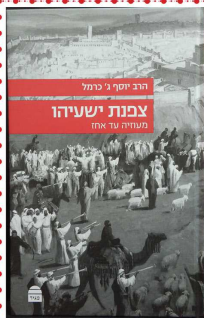
(condensed from Ein Ayah, Shabbat 2:207)

Gemara: One whose head hurts should view himself as one who was put in a *kolar* (jail for those awaiting strict punishment).

Ein Ayah: When a person feels that he is included in the shortcomings of the human race as a whole, this is a reliable sign of his being impacted by sin and that he has the tendencies toward evil like other humans have. Then he needs to be subjected to the cleansing experience of needing to toil with difficulties to sustain himself, which removes sin from those with a natural tendency toward it.

When a person feels a unique personal affliction, this is a sign of a personal shortcoming which is beyond a tendency but is a sign of a sin that has actually come to fruition. This sin caused damage to the soul which required the person's strength to be reduced, which is why his head started hurting him. In that state, he is considered as one who is incarcerated, as he cannot use all his physical and spiritual powers. The full use of powers is worthwhile for one who is righteous and can use them for proper activities and accomplishments. One who has deteriorated should be restrained from doing all that he wants. The *kolar* is a sign of this restraint, as it is a place that prevents a dangerous person from doing damage in society.

In contrast, internal tendencies can be fixed even if they are somewhat distorted, and a person can keep his full strength for a variety of activities, which require vitality. "I am Your servant the son of Your maid-servant, You released my bonds" (Tehillim 116:16).



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.

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P'ninat Mishpat

Lawyer's Rights to Full Fees from Reluctant Client – part II

(ruling 72060 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) is a lawyer (/owner of a law firm) who represented the defendant (=def), a wealthy businessman (/businesses he owned) in many matters, including several multi-million-shekel (attempted) purchases. Def paid pl more than 1.6 million shekels over 4 years, but pl claims that he is still owed more than 2 million shekels. **Issue #2:** In several of the cases that pl handled, there was no prior agreement (or pl did not succeed to prove that there was) of the rate of payment due to pl. Pl claims that it should be according to pl's normal per-hour fee. Def objects to the system and the high rate that pl claims is standard.

Ruling: **Issue #2:** The Shulchan Aruch (Choshen Mishpat 331:3) says that if the sides agreed that a worker be paid like local workers, he is paid the average local salary. This seems to contradict the *gemara* (Bava Metzia 76a) that if there was no agreement on salary, a worker receives according to the lowest accepted salary. The Rif explains that the employer has the cheap price in mind, and if the worker wants more, he must stipulate. The K'tzot Hachoshen (331:1) says that usually one receives the lower salary, but in the former case, the fact that he mentioned local salaries implies that he agreed to an average salary.

Other matters in which there were prior agreements between pl and def can be telling regarding cases where there no agreement. The Rama (CM 333:8) says that if someone worked for a year at a certain price and then continued without stipulating a price, we assume it is at the same price. Admittedly, we are discussing new cases and not a continuation, and we see that there were different agreements in different cases. However, we can still use the past to help figure out the range of possible rates, within which we should pick the lowest. Furthermore, in certain fields, including law, it is common for a firm to have standard rates (as pl claims to have), in which case, if the client wants a lower rate, he should negotiate for it. Finally, when determining the range of rates, one has to consider the quality of the firm involved (see parallel idea in Shulchan Aruch, CM 332:1), and def agreed that pl is in the top-tier of law firms. Thus, def cannot pay pl like a low or middle-level lawyer.

Since it is not possible to determine in every case what the two sides would have agreed to, the most feasible manner of estimation is by hour. However, it is clear that the rates quoted are pl's full rates, and there is no question that pl often offered def lower rates based on their ongoing relationship. We also consider that the responsibility for setting the rates was on pl. Therefore, based on *peshara hakerova ladin*, we determine that when there is no other indication, pl is entitled to 60% of the full rate, according to the hours that they claim (discussed last week).

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